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ABSTRACT

Chapter 1 of this handbook of Montana library laws, rules, and public library standards contains excerpts from the Constitution of Montana, including articles on property tax exemptions, educational goals and duties, and code of ethics. Montana library laws covering the following areas are presented in Chapter 2: publication and updating of the code; code of ethics; open meetings; adoption and publication of rules; public records; government structure and administration; education; communication systems; form and reporting of Supreme Court decisions; dissemination of laws and proceedings; legislative council and publication of laws; local government; municipal commission government; municipal commission-manager government; county budget law; municipal budget law; municipal taxation; interlocal agreements; consolidation and transfer of services; multijurisdictional service districts; tax-exempt property; coal severance taxes; board of public education; superintendent of public instruction; district superintendent and principal; accreditation and curriculum; school instruction and special programs libraries; university units; Montana educational telecommunications network; State Library Commission; State Library; free public libraries; library systems; law library; Interstate Library Compact; Library Records Confidentiality Act; cultural and aesthetic projects; historical society; price discrimination; offensive, indecent, and inhumane conduct; Montana Clean Indoor Air Act; smoking in public places, government offices, and work areas; fire safety in public buildings; universal access and service; natural resource information systems; advisory committee; and information system. Chapter 3 provides organizational, procedural, and substantive administrative rules of Montana. Chapter 4 contains the Montana Public Library Standards, including sections on governance and finance, human resources, access, materials and collection, and facilities and public relations. Includes an index of Montana library laws. (MES)

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CHAPTER 1
CONSTITUTION OF MONTANA

CHAPTER 1 CONSTITUTION OF MONTANA

ARTICLE VIII

REVENUE AND FINANCE

Section 5. Property tax exemptions.

(1) The legislature may exempt from taxation:

(a) Property of the United States, the state, counties, cities, towns, school districts, municipal corporations, and public libraries, but any private interest in such property may be taxed separately.

(b) Institutions of purely public charity, hospitals and places of burial not used or held for private or corporate profit, places for actual religious worship, and property used exclusively for educational purposes.

(C) ANY OTHER CLASSES OF PROPERTY.

(2) The legislature may authorize creation of special improvement districts for capital improvements and the maintenance thereof. It may authorize the assessment of charges for such improvements and maintenance against tax exempt property directly benefited thereby.

ARTICLE X

EDUCATION AND PUBLIC LANDS

Section 1. Educational goals and duties.

(1) It is the goal of the people to establish a system of education which will develop the full educational potential of each person. Equality of educational opportunity is guaranteed to each person of the state.

(2) The state recognizes the distinct and unique cultural heritage of the American Indians and is committed in its educational goals to the preservation of their cultural integrity.

(3) The legislature shall provide a basic system of free quality public elementary and secondary schools. The legislature may provide such other educational institutions, public libraries, and educational programs as it deems desirable. It shall fund and distribute in an equitable manner to the school districts the state's share of the cost of the basic elementary and secondary school system.

ARTICLE XIII

GENERAL PROVISIONS

Section 4. Code of ethics.

The legislature shall provide a code of ethics prohibiting conflict between public duty and private interest for members of the legislature and all state and local officers and employees.

CHAPTER 2

MONTANA LIBRARY LAWS

CHAPTER 2 MONTANA LIBRARY LAWS

PUBLICATION AND UPDATING OF THE CODE

1-11-301. Publication and sale of Montana Code Annotated — free distribution.

(1) The legislative council, with the advice of the code commissioner, shall decide on the quantity, quality, style, format, and grade of all publications prior to having the code commissioner call for bids for the printing and binding and contract for their publication. The code commissioner shall follow the requirements of state law relating to contracts and bids, except as provided in this section.

(2) The methods of sale to the public of the Montana Code Annotated and supplements or other subsequent and ancillary publications may be included as an alternative specification and bid and as a part of a contract to be let by bids by the code commissioner.

(3) The sales price to the public of all Montana Code Annotated material must be fixed by the legislative council but may not exceed the cost price plus 25%. All revenue generated from the sale of the Montana Code Annotated or ancillary publications must be deposited in the state special revenue fund. Appropriations from the fund may be made for the use of the office and facilities of the legislative council under this chapter.

(4) Sets of the Montana Code Annotated purchased by the state, Montana local governmental agencies that are supported by public funds, and nonprofit organizations may not exceed the cost price of the sets plus 5%.

(5) (a) The Montana Code Annotated and supplements and other subsequent and ancillary publications except annotations must be provided at no cost to the following:

(i) each library designated as a depository library under 22-1-214 , one copy;

(ii) each library designated as a federation headquarters library under 22-1-402 , one copy.

(b) The state law library in Helena must be provided with four copies of the Montana Code Annotated and supplements, including annotations and other subsequent and ancillary publications.

(c) The legislative council shall include in the cost price of the code the cost of providing the copies under this subsection.

CODE OF ETHICS

2-2-101. Statement of purpose.

The purpose of this part is to set forth a code of ethics prohibiting conflict between public duty and private interest as required by the constitution of Montana. This code recognizes distinctions between legislators, other officers and employees of state government, and officers and employees of local government and prescribes some standards of conduct common to all categories and some standards of conduct adapted to each category. The provisions of this part recognize that some actions are conflicts per se between public duty and private interest while other actions may or may not pose such conflicts depending upon the surrounding circumstances.

2-2-102. Definitions.

As used in this part, the following definitions apply: (1) "Business" includes a corporation, partnership, sole proprietorship, trust or foundation, or any other individual or organization carrying on a business, whether or not operated for profit.

(2) "Compensation" means any money or economic benefit conferred on or received by any person in return for services rendered or to be rendered by the person or another.

(3) (a) "Gift of substantial value" means a gift with a value of $50 or more for an individual.

(b) The term does not include:

(i) a gift that is not used and that, within 30 days after receipt, is returned to the donor or delivered to a charitable organization or the state and that is not claimed as a charitable contribution for federal income tax purposes;

(ii) food and beverages consumed on the occasion when participation in a charitable, civic, or community event bears a relationship to the public officer's or public employee's office or employment or when the officer or employee is in attendance in an official capacity;

(iii) educational material directly related to official governmental duties;

(iv) an award publicly presented in recognition of public service; or

(v) educational activity that:

(A) does not place or appear to place the recipient under obligation;

(B) clearly serves the public good; and

(C) is not lavish or extravagant.

(4) "Official act" or "official action" means a vote, decision, recommendation, approval, disapproval, or other action, including inaction, that involves the use of discretionary authority.

(5) "Private interest" means an interest held by an individual that is:

(a) an ownership interest in a business;

(b) a creditor interest in an insolvent business;

(c) an employment or prospective employment for which negotiations have begun;

(d) an ownership interest in real property;

(e) a loan or other debtor interest; or

(f) a directorship or officership in a business.

(6) "Public employee" means:

(a) any temporary or permanent employee of the state or any subdivision of the state;

(b) a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority; and

(c) a person under contract to the state.

(7) "Public officer" includes any state officer. The term includes an elected officer of any subdivision of the state.

(8) (a) "State agency" includes:

(i) the state;

(ii) the legislature and its committees;

(iii) all executive departments, boards, commissions, committees, bureaus, and offices;

(iv) the university system; and

(v) all independent commissions and other establishments of the state government.

(b) The term does not include the judicial branch.

(9) "State officer" includes all elected officers and directors of the executive branch of state government as defined in 2-15-102 .

2-2-103. Public trust — public duty.

(1) The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual's duties for the benefit of the people of the state.

(2) A public officer, legislator, or public employee whose conduct departs from the person's public duty is liable to the people of the state and is subject to the penalties provided in this part for abuse of the public's trust.

(3) This part sets forth various rules of conduct, the transgression of any of which is a violation of public duty, and various ethical principles, the transgression of any of which must be avoided.

(4) (a) The enforcement of this part for:

(i) state officers, legislators, and state employees is provided for in 2-2-136 and 2-2-137;

(ii) legislators, involving legislative acts, is provided for in 2-2-135 and for all other acts is provided for in 2-2-136 and 2-2-137;

(iii) local government officers and employees is provided for in 2-2-144.

(b) Any money collected in the civil actions that is not reimbursement for the cost of the action must be deposited in the general fund of the unit of government.

2-2-104. Rules of conduct for public officers, legislators, and public employees.

(1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:

(a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate

substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated, unless:

(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or

(ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.

(b) Subsection (3)(a) does not prohibit:

(i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or compensatory time during the period of overlapping employment; or

(ii) a public school teacher from receiving payment from a college or university for the supervision of student teachers who are enrolled in a teacher education program at the college or university if the supervision is performed concurrently with the school teacher's duties for a public school district.

(c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee subject to this subsection (3) shall disclose the amounts received from the two separate public employment positions to the commissioner of political practices.

2-2-105. Ethical requirements for public officers and public employees.

(1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer or public employee may not, within 12 months following the voluntary termination of office or employment, obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking.

OPEN MEETINGS

2-3-201. Legislative intent — liberal construction.

The legislature finds and declares that public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples' business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.

2-3-202. Meeting defined.

As used in this part, "meeting" means the convening of a quorum of the constituent membership of a public agency or association described in 2-3-203, whether corporal or by means of electronic equipment, to hear, discuss, or act upon a matter over which the agency has supervision, control, jurisdiction, or advisory power.

2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public — exceptions.

(1) All meetings of public or governmental bodies, boards, bureaus, commissions, agencies of the state, or any political subdivision of the state or organizations or agencies supported in whole or in part by public funds or expending public funds must be open to the public.

(2) All meetings of associations that are composed of public or governmental bodies referred to in subsection (1) and that regulate the rights, duties, or privileges of any individual must be open to the public.

(3) Provided, however, the presiding officer of any meeting may close the meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains and, in that event, the meeting must be open.

(4) (a) However, except as provided in subsection (4)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in subsections (1) and (2).

(5) Any committee or subcommittee appointed by a public body or an association described in subsection (2) for the purpose of conducting business which is within the jurisdiction of that agency is subject to the requirements of this section.

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2-4-313. Distribution, costs, and maintenance.

(1) The secretary of state shall distribute copies of the ARM and supplements or revisions to the ARM to the following:

(a) attorney general, one copy;

(b) clerk of United States district court for the district of Montana, one copy;

(c) clerk of United States court of appeals for the ninth circuit, one copy;

(d) county commissioners or governing body of each county of this state, for use of county officials and the public, at least one but not more than two copies, which may be maintained in a public library in the county seat or in the county offices as the county commissioners or governing body of the county may determine;

(e) state law library, one copy;

(f) state historical society, one copy;

(g) each unit of the Montana university system, one copy;

(h) law library of the university of Montana-Missoula, one copy;

(i) legislative services division, two copies;

(j) library of congress, one copy;

(k) state library, one copy.

(2) The secretary of state, each county in the state, and the librarians for the state law library and the university of Montana-Missoula law library shall maintain a complete, current set of the ARM, including supplements or revisions to the ARM. The designated persons shall also maintain the register issues published during the preceding 2 years. The secretary of state shall maintain a permanent set of the registers.

(3) The secretary of state shall make copies of and subscriptions to the ARM and supplements or revisions to the ARM and the register available to any person at prices fixed in accordance with subsection (4).

(4) The secretary of state shall determine the cost of supplying copies of the ARM and supplements or revisions to the ARM and the register to persons not listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of the ARM and supplements or revisions to the ARM and the register. Fees are not refundable.

(5) The secretary of state shall deposit all fees in a proprietary fund.

(6) The secretary of state may charge agencies a filing fee for all material to be published in the ARM or the register. The secretary of state shall fix the fee to cover the costs of supplying copies of the ARM and supplements or revisions to the ARM and the register to the persons listed in subsection (1). The cost must be the approximate cost of publication of the copies, including indexing, printing or duplicating, and mailing. However, a uniform price per page or group of pages may be established without regard to differences in cost of printing different parts of the ARM and supplements or revisions to the ARM and the register.

PUBLIC RECORDS GENERALLY

2-6-101. Definitions.

(1) Writings are of two kinds:
(a) public; and
(b) private.
(2) Public writings are:

(a) the written acts or records of the acts of the sovereign authority, of official bodies and tribunals, and of public officers, legislative, judicial, and executive, whether of this state, of the United States, of a sister state, or of a foreign country except records that are constitutionally protected from disclosure;

(b) public records, kept in this state, of private writings, except as provided in 22-1-1103 and 22-3-807 and except for records that are constitutionally protected from disclosure.

(3) Public writings are divided into four classes:
(a) laws;
(b) judicial records;
(c) other official documents;
(d) public records, kept in this state, of private writings.
(4) All other writings are private.

2-6-102. Citizens entitled to inspect and copy public writings.

(1) Every citizen has a right to inspect and take a copy of any public writings of this state, except as provided in 22-1-1103 or 22-3-807, or subsection (3) of this section and as otherwise expressly provided by statute.

(2) Every public officer having the custody of a public writing which a citizen has a right to inspect is bound to give him on demand a certified copy of it, on payment of the legal fees therefor, and such copy is admissible as evidence in like cases and with like effect as the original writing.

(3) Records and materials that are constitutionally protected from disclosure are not subject to the provisions of this section. Information that is constitutionally protected from disclosure is information in which there is an individual privacy interest that clearly exceeds the merits of public disclosure, including legitimate trade secrets, as defined in 30-14-402, and matters related to individual or public safety.

(4) A public officer may withhold from public scrutiny information relating to individual privacy or individual or public safety or security of public facilities, including jails, correctional facilities, private correctional facilities, and prisons, if release of the information may jeopardize the safety of the facility personnel, the public, or inmates of a facility. Security features that may be protected under this section may include but are not limited to architectural floor plans, blueprints, designs, drawings, building materials, alarms system plans, surveillance techniques, and facility staffing plans, including staff numbers and locations. A public officer may not withhold from public scrutiny any more information than is required to protect an individual privacy interest or safety or security interest.

2-6-104. Records of officers open to public inspection.

Except as provided in 27-18-111 and 42-6-101, the public records and other matters, except records that are constitutionally protected from disclosure, in the office of any officer are at all times during office hours open to the inspection of any person.

2-6-109. Prohibition on distribution or sale of mailing lists — exceptions — penalty.

(1) Except as provided in subsections (3) through (8), in order to protect the privacy of those who deal with state and local government:

(a) an agency may not distribute or sell for use as a mailing list any list of persons without first securing the permission of those on the list; and

(b) a list of persons prepared by the agency may not be used as a mailing list except by the agency or another agency without first securing the permission of those on the list.

(2) As used in this section, "agency" means any board, bureau, commission, department, division, authority, or officer of the state or a local government.

(3) This section does not prevent an individual from compiling a mailing list by examination of original documents or applications that are otherwise open to public inspection.

(4) This section does not apply to the lists of registered electors and the new voter lists provided for in 13-2-115 and 13-38-103, to lists of the names of employees governed by Title 39, chapter 31, or to lists of persons holding driver's licenses provided for under 61-5-126.

(5) This section does not prevent an agency from providing a list to persons providing prelicensing or continuing education courses subject to state law or subject to Title 33, chapter 17.

(6) This section does not apply to the right of access either by Montana law enforcement agencies or, by purchase or otherwise, of public records dealing with motor vehicle registration.

(7) This section does not apply to a corporate information list developed by the secretary of state containing the name, address, registered agent, officers, and directors of business, nonprofit, religious, professional, and close corporations authorized to do business in this state.

(8) This section does not apply to the use by the public employees' retirement board of a mailing list of board-administered retirement system participants to send materials on behalf of a retiree organization formed for board-administered retirement system participants and with tax-exempt status under section 501(c)(4) of the Internal Revenue Code, as amended, for a fee determined by rules of the board, provided that the mailing list is not released to the organization.

(9) A person violating the provisions of subsection (1)(b) is guilty of a misdemeanor.

2-6-110. Electronic information — public access — fees.

(1) (a) Except as provided by law, each person is entitled to a copy of information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the

information in printed form. All restrictions relating to confidentiality, privacy, business secrets, and copyright are applicable to the electronic or nonprint information.

(b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to 22-3-101.

(2) Except as provided by law and subject to subsection (3), an agency may charge a fee, not to exceed:

(a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;

(b) expenses incurred by the agency as a result of mainframe processing charges;

(c) expenses incurred by the agency for providing online computer access to the person requesting access;

(d) other out-of-pocket expenses directly associated with the request for information; and

(e) the hourly rate for the current fiscal year for a state employee classified as grade 10, market salary, under 2-18-312 for each hour, or fraction of an hour, after one-half hour of copying service has been provided.

(3) (a) In addition to the allowable fees in subsection (2), the department of revenue may charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and assessment system data base from which the information is requested. The fee must be charged to persons, federal agencies, state agencies, and other entities requesting the data base or any part of the data base from any department property valuation and assessment system. The fee may not be charged to the governor's office of budget and program planning, the state tax appeal board, or any legislative agency or committee.

(b) The department of revenue may not charge a fee for information provided from any department property valuation and assessment system data base to a local taxing jurisdiction for use in taxation and other governmental functions or to an individual taxpayer concerning the taxpayer's property.

(c) All fees received by the department of revenue under subsection (2) and this subsection (3) must be deposited in a state special revenue fund as provided in 15-1-521.

(4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes legislative, judicial, and state military agencies.

(5) An agency may not charge more than the amount provided under subsection (2) for providing a copy of an existing nonprint record.

(6) An agency shall ensure that a copy of information provided to a requestor is of a quality that reflects the condition of the original if requested by the requestor.

(7) This section does not authorize the release of electronic security codes giving access to private information.

[GOVERNMENT STRUCTURE AND ADMINISTRATION] GENERAL PROVISIONS

2-15-108. Gender and racial balance — report to legislature.

(1) As vacancies occur and appointments are made, all appointing authorities of all appointive boards, commissions, committees, and councils of state government shall

take positive action to attain gender balance and proportional representation of minorities resident in Montana to the greatest extent possible.

(2) Pursuant to subsection (1), the secretary of state shall publish in the Montana Administrative Register on a monthly basis the recent appointments made by the executive branch and the upcoming vacancies on executive boards and commissions.

(3) The governor shall report to the legislature, as provided in 5-11-210, on the progress made toward achieving the goals set forth in this section.

2-15-122. Creation of advisory councils.

(1) (a) A department head or the governor may create advisory councils.

(b) An agency or an official of the executive branch of state government other than a department head or the governor, including the superintendents of the state's institutions and the presidents of the units of the state's university system, may also create advisory councils but only if federal law or regulation requires that such official or agency create the advisory council as a condition to the receipt of federal funds.

(c) The board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, and the superintendent of public instruction may create advisory councils, which shall serve at their pleasure, without the approval of the governor. They must file a record of each council created by them in the office of the governor and the office of the secretary of state in accordance with subsection (9) of this section.

(2) Each advisory council created under this section shall be known as the ".... advisory council."

(3) The creating authority shall prescribe the composition and advisory functions of each advisory council created; appoint its members, who shall serve at the pleasure of the governor; and specify a date when the existence of each advisory council ends.

(4) Advisory councils may be created only for the purpose of acting in an advisory capacity as defined in 2-15-102.

(5) Unless he is a full-time salaried officer or employee of this state or of any political subdivision of this state, each member is entitled to be paid in an amount to be determined by the department head, not to exceed $25 for each day in which he is actually and necessarily engaged in the performance of council duties, and he is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of council duties. Members who are full-time salaried officers or employees of this state or of any political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503.

(6) Unless otherwise specified by the creating authority, at its first meeting in each year each advisory council shall elect a chairman and such other officers as it considers necessary.

(7) Unless otherwise specified by the creating authority, each advisory council shall meet at least annually and shall also meet on the call of the creating authority or the governor and may meet at other times on the call of the chairman or a majority of its members. An advisory council may not meet outside the city of Helena without the express prior authorization of the creating authority.

(8) A majority of the membership of an advisory council constitutes a quorum to do business.

(9) Except as provided in subsection (1)(c) of this section, an advisory council may not be created or appointed by a department head or any other official without the approval of the governor. In order for the creation or approval of the creation of an advisory council to be effective, the governor must file in his office and in the office of the secretary of state a record of the council created showing the council's:

(a) name, in accordance with subsection (2) of this section;

(b) composition;

(c) names and addresses of the appointed members;

(d) purpose;

(e) term of existence, in accordance with subsection (10) of this section.

(10) An advisory council may not be created to remain in existence longer than 2 years after the date of its creation or beyond the period required to receive federal or private funds, whichever occurs later, unless extended by the governor or by the board of public education, the board of regents of higher education, the state board of education, the attorney general, the state auditor, the secretary of state, or the superintendent of public instruction for those advisory councils created in the manner set forth in subsection (1)(c) of this section. If the existence of an advisory council is extended, they shall specify a new date, not more than 2 years later, when the existence of the advisory council ends and file a record of the order in the office of the governor and the office of the secretary of state. The existence of any advisory council may be extended as many times as necessary.

EDUCATION

2-15-1511. Agencies allocated to state board of education.

The state historical society, the Montana arts council, and the state library commission are allocated to the state board of education for purposes of planning and coordination. Budget requests to the state for these agencies shall be included with the budget requests of the state board of education; however, the governance, management, and control of the respective agencies shall be vested respectively in the board of trustees of the state historical society, the Montana arts council, and the state library commission.

2-15-1514. State library commission — natural resource data system advisory committee.

(1) (a) There is a state library commission which is created in Title 22, chapter 1.

(b) The composition, method of appointment, terms of office, compensation, reimbursement, and qualifications of commission members remain as prescribed by law.

(2) (a) There is a natural resource data system advisory committee consisting of an employee of the legislative services division, of the state library, and of each principal data source agency, appointed by the head of the respective state agency, and by the board of regents of higher education for the Montana university system.

(b) The state library shall provide staff support to the committee, within the limits of the library's available resources.

2-15-1523. Ground water assessment steering committee.

(1) There is a ground water assessment steering committee consisting of an employee of each of the following state agencies that have responsibility for ground water protection, management, or information. The member must be appointed by the head of the respective state agency:

(a) the department of natural resources and conservation;

(b) the department of environmental quality;

(c) the department of agriculture; and

(d) the Montana state library, natural resource information system.

(2) The ground water assessment steering committee may include representatives of the following agencies and units of government with expertise or management responsibility related to ground water and representatives of the organizations and groups specified in subsection (2)(h), who shall serve as ex officio members:

(a) the legislative services division;

(b) the board of oil and gas conservation;

(c) the Montana bureau of mines and geology;

(d) a unit of the university system, other than the Montana bureau of mines and geology, appointed by the board of regents of higher education for the Montana university system;

(e) a county government, appointed by an organization of Montana counties;

(f) a city, town, or city-county government, appointed by an organization of Montana cities and towns;

(g) each principal federal agency that has responsibility for ground water protection, management, or research, appointed by the Montana head of the respective federal agency; and

(h) one representative of each of the following, appointed by the governor:

(i) agricultural water users;

(ii) industrial water users; and

(iii) a conservation or ecological protection organization.

(3) The ground water assessment steering committee shall elect a presiding officer from its voting members.

(4) The Montana bureau of mines and geology shall provide staff support to the committee.

COMMUNICATION SYSTEMS

2-17-322. Establishment.

(1) The department of administration shall establish and maintain appropriate electronic access systems for state agencies to use as a means of conveying information to the citizens of Montana. State agencies may establish electronic access systems that meet minimum technical standards established by the department. Agencies involved in communicating information to the public shall use these systems to provide appropriate information to the public, including but not limited to:

(a) environmental assessments;

(b) rulemaking notices;

(c) board vacancy notices as required by 2-15-201;

(d) agency reports mandated by statute;

(e) parks reports required by 23-1-110;

(f) requests for bids or proposals; and

(g) public meeting notices and agendas.

(2) The purpose of electronic access systems is to encourage the practice of providing for direct citizen access to state computerized information."

2-17-323. Responsibilities.

(1) The department of administration shall:

(a) in collaboration with other state agencies, set standards for the selection of software for the electronic access systems;

(b) establish appropriate services to support state agencies' use of the electronic access systems;

(c) develop user-friendly file transfer and message systems for entities regularly interacting with state government, such as professional associations and citizen groups, and promote the systems' use to reduce copying and mailing costs for state government; and

(d) determine procedures for use of the electronic access systems.

(2) The department shall provide security to protect the integrity of its electronic access systems. Each department is responsible for ensuring the integrity and appropriateness of the information that it places in the electronic access systems.

(3) The department shall provide for an equitable method for recovering the cost of operating the electronic access systems that the department provides.

FORM AND REPORTING OF [SUPREME COURT] DECISIONS

3-2-604. Distribution of reports.

(1) On the publication of each volume of the reports, the supreme court shall purchase and distribute:

(a) each volume to each justice of the supreme court and to each district court judge; and

(b) four copies of each volume to the law library of the state of Montana.

(2) All reports distributed pursuant to subsection (1) are for the use of the office and must be turned over to the successor in office.

DISSEMINATION OF LAWS AND PROCEEDINGS

5-11-203. Distribution of session laws — inspection of journals.

(1) Immediately after the session laws are published, the legislative services division shall distribute them.

(2) The legislative services division shall make the house and senate journals available for inspection or copying by the public as provided in Title 2, chapter 6, part 1. The legislative services division may publish the journals in an electronic format.

(3) The following entities may receive the number of copies of session laws listed at no cost:

(a) to the library of congress, eight copies;

(b) to the state library, two copies;

(c) to the state historical library, two copies;

(d) to the state law librarian, four copies for the use of the library and additional copies as may be required for exchange with libraries and institutions maintained by other states and territories and public libraries;

(e) to the library of each custodial institution, one copy;

(f) to each Montana member of congress, each United States district judge in Montana, each of the judges of the state supreme and district courts, and each of the state officers as defined in 2-2-102, one copy;

(g) to any agency, board, commission, or office of the state, other than a state officer, and to any other subdivision of the state upon request and approval by the legislative council, one copy;

(h) to each member of the legislature, the secretary of the senate, and the chief clerk of the house of representatives from the session at which the laws were adopted, one copy;

(i) to each of the community college districts of the state, as defined in 20-15-101, and each unit of the Montana university system, one copy;

(j) to each county clerk, one copy for the use of the county; and

(k) to each county attorney and to each clerk of a district court, one copy.

LEGISLATIVE COUNCIL AND PUBLICATION OF LAWS

5-11-212. Fees for proceedings.

(1) A complete set of the proceedings of a regular or special session of the legislature may be purchased from the legislative services division for the amount prescribed by the legislative council. Upon receipt of payment, the executive director of the legislative services division shall supply the purchaser with a complete set of the proceedings.

(2) A purchaser who requests that a set of the proceedings be mailed shall pay an additional fee as prescribed by the council for each complete set that is mailed.

(3) Single copies of bills, resolutions, or amendments to bills or resolutions may be purchased from the legislative services division for a price varying with the length of the document as prescribed by the legislative council.

(4) Single copies of status sheets or status of proceedings may be purchased from the legislative services division for a price per copy as prescribed by the legislative council. A person may subscribe to receive daily copies of the status sheets or status of proceedings by mail for a fee set by the legislative council to cover the costs of the service.

(5) The executive director of the legislative services division shall account for all funds collected under this section and shall transmit the funds to the treasurer of the state of Montana, who shall credit them to the general fund."

5-11-213. Exclusions.

Each general circulation newspaper published in Montana and each radio or television station broadcasting in Montana that has registered with the executive director of the legislative services division is exempt from 5-11-212 and shall receive one complete set of the proceedings of the legislature for the ensuing biennium without charge.

5-11-214. Exemptions from fees.

All elected officials, state department heads, the state law library, and county clerk and recorders shall be exempt from 5-11-212.

[LOCAL GOVERNMENT] GENERAL PROVISIONS

7-3-187. Final report.

(1) A study commission shall adopt a final report. If the study commission recommends an alternative form of government, the final report must contain the following materials and documents, each signed by a majority of the study commission members:

(a) those materials and documents required of a petition proposing an alteration of an existing form of government in 7-3-142;

(b) a certificate establishing the date of the special election, which must be held in conjunction with a regular or primary election, at which the alternative form of government is presented to the electors and a certificate establishing the form of the ballot question or questions; and

(c) a certificate establishing the dates of the first primary and general elections for officers of a new government if the proposal is approved and establishing the effective date of the proposal if approved.

(2) The final report must contain any minority report signed by members of the commission who do not support the majority proposal.

(3) If the study commission is not recommending any changes, its final report must indicate that changes are not recommended.

(4) The study commission shall file two copies of the final report with the department of commerce, one of which the department shall forward to the state library. A copy of the final report must be certified by the study commission to the municipal or county records administrator within 30 days after the adoption of the final report.

(5) Sufficient copies of the final report must be prepared for public distribution. The final report must be available to the electors not later than 30 days prior to the election on the issue of adopting the alternative plan. Copies of the final report may be distributed to electors or residents of the local government or governments affected.

(6) After submission of the final report, the commission shall deposit copies of its minutes and other records with the county clerk and recorder.

MUNICIPAL COMMISSION GOVERNMENT

7-3-4252. Powers of council.

The council has and shall exercise all executive, legislative, and judicial powers and duties possessed and exercised by the mayor, city council, board of public works, park commissioners, board of police and fire commissioners, board of waterworks trustees, board of library trustees, attorney, treasurer, auditor, city engineer, and other executive and administrative offices in cities organized under the general municipal incorporation laws.

7-3-4253. Department structure and operation.

(1) The executive and administrative powers, authority, and duties in such cities shall be distributed into and among departments as follows:

(a) in cities having a mayor and two councilmen, into three departments:
(i) a department of accounts, finance, and public property;
(ii) a department of public safety and charity;
(iii) a department of streets, public improvements, and parks;
(b) in cities having a mayor and four councilmen, into five departments:
(i) a department of public affairs;
(ii) a department of accounts and finance;
(iii) a department of public safety and charity;
(iv) a department of street and public improvements;
(v) a department of parks and public property.

(2) The council shall determine the powers and duties to be performed by each department of the city, shall prescribe the powers and duties of officers and employees, may assign particular officers and employees to one or more of the departments, may require an officer or employee to perform duties in two or more departments, and may make such rules as may be necessary or proper for the efficient and economical conduct of the business of the city.

7-3-4254. Selection and supervision of officers and employees.

(1) In cities having a mayor and two councilmen, the mayor shall be superintendent of the department of accounts, finance, and public property, and in cities having a mayor and four aldermen, the mayor shall be superintendent over the department of public affairs, and the mayor shall have general supervision over all departments of the city and over all matters connected with said city, and the council shall, at its first regular meeting after the election of its members, designate by majority vote one councilman to be superintendent over each department of the city, but such designation may be changed whenever it appears that the public service would be benefited thereby.

(2) The council shall, at its first regular meeting after the election of its members or as soon thereafter as practicable, elect by majority vote the following officers: a city clerk, a city treasurer, a city attorney, a city auditor, a city engineer, a city physician, a chief of the fire department, a chief of the police department, a commissioner of weights and measures, a street commissioner, library trustees, cemetery trustees, and such other officers and assistants as shall be provided for by ordinance and which may be necessary to the proper and efficient conduct of the affairs of the city. The council may by ordinance consolidate any of the offices the election to which is made by the council and may require any officer elected by the council to perform the duties of any other officer and shall appoint a city judge with the authority now conferred by existing laws. The tenure in office of a chief of the fire department and other officers of the fire department shall be governed by the provisions of 7-33-4106 and 7-33-4122 through 7-33-4124 . Any officer or assistant elected or appointed by the council may be removed

from office at any time by a majority vote of the members of the council, except as otherwise provided in this part.

(3) The council shall have power from time to time to create, fill, and discontinue offices and employment other than herein prescribed, according to their judgment of the needs of the city, and by majority vote of all the members to remove any such officer or employee, except as otherwise provided for in this part, and may by resolution or otherwise prescribe, limit, or change the compensation of such officers or employees.

7-3-4266. Report of proceedings and financial statement.

The council shall monthly print in pamphlet form a detailed itemized statement of all of the receipts and expenses of the city and a summary of its proceedings during the preceding month and furnish printed copies of the statement to the state library, the city library, the daily newspaper of the city, and persons who apply for the statement at the office of the city clerk.

MUNICIPAL COMMISSION-MANAGER GOVERNMENT

7-3-4463. Department of public welfare.

(1) Subject to the supervision and control of the city manager in all matters, the director of public welfare shall manage all charitable, correctional, and reformatory institutions and agencies belonging to the municipality and the use of all recreational facilities of the municipality, including libraries, parks, and playgrounds. He shall have charge of the inspection and supervision of public amusements and entertainments. He shall enforce all laws, ordinances, and regulations relative to the preservation and promotion of the public health; the prevention and restriction of disease; the prevention, abatement, and suppression of nuisances; and the sanitary inspection and supervision of the production, transportation, storage, and sale of foodstuffs. He shall cause a complete and accurate system of vital statistics to be kept. In time of epidemic or threatened epidemic, he may enforce such quarantine regulations as are appropriate to the emergency. The director of public welfare shall provide for the study of and research into causes of poverty, delinquency, crime, disease, and other social problems in the community and shall, by means of lectures and exhibits, promote the education and understanding of the community in those matters which affect the public welfare.

(2) The health officer of the municipality shall be under the direction and control of the director of public welfare and shall enforce all ordinances and laws relating to health and shall perform all duties and have all powers provided by general law relative to the public health to be exercised in municipalities by health officers. Regulations affecting the public health additional to those established by general law and for the violation of which penalties are imposed shall be enacted by the commission and enforced as provided herein.

COUNTY BUDGET LAW

7-6-2348. Budgets of appointed boards and commissions — exemption for bonds.

(1) With respect to tax and fee money, the proposed budget of and the number of mills to be assessed by any board, commission, or other governing entity, except a

board of trustees of a public library and an airport authority, appointed by a local government are subject to approval by that local government.

(2) If a board, commission, or other governing entity, other than a port authority created under Title 7, chapter 14, part 11, issues bonds and pledges to the payment of the bonds, taxes, revenue, or fees in accordance with the statutes authorizing the issuance of the bonds, the taxes, revenue, or fees and the levy or appropriation of the taxes, revenue, or fees are not subject to approval by the local government appointing the board, commission, or governing entity.

7-6-2352. State grants to district courts — rules.

(1) The state shall make grants, to the extent funds are available after expenses provided for in 3-5-901 are funded, to the governing body of a county for the district courts for assistance, as provided in this section.

(2) The governing body of a county may apply to the supreme court administrator for a grant by filing a written request on forms provided by the administrator by August 20 for the previous fiscal year unless the administrator grants a time extension upon request of the county. In its request for a grant, a county must certify that:

(a) all expenditures from the district court fund have been lawfully made;

(b) no transfers from the district court fund have been or will be made to any other fund; and

(c) no expenditures have been made from the district court fund that are not specifically authorized by 7-6-2511 and 7-6-2351.

(3) To the extent funds are available, the state shall award a grant if the county's district court expenditures for the previous fiscal year exceeded the sum of:

(a) the product of the maximum mill levy authorized by law for district court purposes, whether or not assessed, multiplied by the previous year's taxable valuation of the county; and

(b) all revenues, except district court grants, required by law to be deposited in the district court fund for the previous fiscal year.

(4) Eligible court expenditures for grant purposes include all costs of the county associated with the operation and maintenance of the district court, from whatever fund paid, except costs for building and capital items and library maintenance, replacement, and acquisition.

(5) The supreme court administrator shall notify each eligible county as soon as possible of the state's intention to award a grant to that county and the amount of the award.

(6) The grant received by the county must be placed in the district court fund.

(7) If an audit conducted pursuant to 2-7-503 discloses that the recipient received a grant in excess of the amount for which it was eligible, the recipient shall repay the excess to the state. The supreme court administrator shall redistribute any repaid excess amounts to the other counties that received grants from the appropriation from which the overpayment was made, on the same basis as the original awards. A county is not eligible for a district court grant if it owes the state a refund of a prior year's overpayment.

(8) The supreme court administrator, in consultation with the supreme court, shall prescribe rules and forms necessary to effectively administer this section. The

administrator may require a county to provide any information considered necessary for the administration of the program.

MUNICIPAL BUDGET LAW

7-6-4259. Budgets of appointed boards and commissions — exemption for bonds.

(1) Subject to 15-10-420 and with respect to tax and fee money, the proposed budget of and the number of mills to be assessed by any board, commission, or other governing entity, except a board of trustees of a public library and an airport authority, appointed by a local government are subject to approval by that local government.

(2) If a board, commission, or other governing entity, other than a port authority created under Title 7, chapter 14, part 11, issues bonds and pledges to the payment of the bonds those taxes, revenue, or fees in accordance with the statutes authorizing the issuance of the bonds, the taxes, revenue, or fees and the levy or appropriation of the taxes, revenue, or fees are not subject to approval by the local government appointing the board, commission, or governing entity.

MUNICIPAL TAXATION

7-6-4451. All-purpose mill levy authorized.

It is the purpose of 7-6-4451 through 7-6-4455 to authorize and empower the cities and towns of Montana, at their option, to make an all-purpose annual mill levy in lieu of the multiple levies now authorized by the statutes of Montana.

7-6-4452. Maximum all-purpose mill levy.

Subject to 15-10-420 and except as provided by law, cities and towns of the state of Montana may make an all-purpose annual levy upon the taxable value of all the property in the cities and towns subject to taxation for municipal purposes in lieu of the multiple levies now authorized by statute. The total of the all-purpose levy may not exceed 65 mills on the dollar.

7-6-4453. Certain special mill levies also available.

(1) The all-purpose mill levy does not include the levies imposed for bonded indebtedness, to pay judgments or tax protest refunds, or for special improvement district revolving funds of municipalities. Subject to 15-10-420, additional levies may be made in addition to the all-purpose levy, as provided in subsection (2). Sections 7-6-4451 through 7-6-4455 shall not be construed as repealing those statutes providing for multiple separate levies.

(2) Extraordinary levies otherwise authorized to pay for bonded indebtedness, judgments, tax protest refunds, or special improvement district revolving funds may be made by such municipalities in addition to such all-purpose levy provided for in 7-6-4451 through 7-6-4455.

(3) In a third-class city or town, the all-purpose mill levy may not include the special tax levy for the firefighters' disability and pension fund provided for in 19-18-503. This special tax levy must be made in addition to the all-purpose mill levy.

7-8-103. Authorization for governmental and public entities to take property by gift or devise.

(1) (a) All counties, all public hospitals and cemeteries, and other public institutions are hereby granted the power and authority to accept, receive, take, hold, and possess any gift, donation, grant, devise, or bequest of real or personal property and the right to own, hold, work, and improve the same.

(b) The provisions of subsection (2) and 7-8-104 are hereby made expressly applicable to gifts, donations, grants, devises, and bequests of real or personal property to officers and boards of the public corporations and institutions mentioned in subsection (1)(a).

(2) (a) Any city or town organized under the laws of Montana is hereby empowered and given the right:

(i) to accept, receive, take, hold, own, and possess any gift, donation, grant, devise, or bequest; any property (real, personal, or mixed); any improved or unimproved park or playground; any water, water right, water reservoir, or watershed; any timberland or reserve; or any fish or game reserve in any part of the state;

(ii) to own, hold, work, and improve the same.

(b) Said gifts, donations, grants, devises, or bequests made to any officer or board of any such city or town shall be considered a gift, donation, grant, devise, or bequest made for the use and benefit of any such city or town and shall be administered and used by and for such city or town for the particular purpose for which the same was given, donated, granted, devised, or bequeathed. In the event no particular purpose is mentioned in such gift, donation, grant, devise, or bequest, then the same shall be used for the general support, maintenance, or improvement of any such city or town.

INTERLOCAL AGREEMENTS

7-11-101. Short title.

This part shall be known and cited as the "Interlocal Cooperation Act."

7-11-102. Purpose.

It is the purpose of this part to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other local governmental units on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.

7-11-103. Definition.

For the purposes of this part, the term "public agency" shall mean any political subdivision, including municipalities, counties, school districts, and any agency or department of the state of Montana.

7-11-104. Authorization to create interlocal agreements — issuance of bonds for joint construction.

One or more public agencies may contract with any one or more other public agencies to perform any administrative service, activity, or undertaking or to participate in the provision or maintenance of any public infrastructure facility, project, or service, including the issuance of bonds for the joint construction of a facility under 20-9-404, that any of the public agencies entering into the contract is authorized by law to perform. The contract must be authorized and approved by the governing body of each party to the contract. The contract must outline fully the purposes, powers, rights, obligations, and responsibilities of the contracting parties.

7-11-105. Detailed contents of interlocal agreements.

The contract authorized by 7-11-104 shall specify the following: (1) its duration;

(2) the precise organization, composition, and nature of any separate legal entity created thereby;

(3) the purpose or purposes of said interlocal contract;

(4) the manner of financing the joint or cooperative undertaking and establishing and maintaining a budget therefor;

(5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(6) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking, including representation of the contracting parties on said joint board;

(7) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking;

(8) any other necessary and proper matters.

7-11-107. Filing of interlocal agreement.

The interlocal contract made pursuant to this part must be filed with: (1) the county clerk and recorder of the county or counties where the political agencies are situated; and

(2) the secretary of state.

7-11-108. Authorization to appropriate funds for purpose of interlocal agreement.

Any public agency entering into an interlocal contract pursuant to this part may appropriate funds for and may sell, lease, or otherwise give or supply to the administrative board created for the purpose of performance of said contract and may provide such personnel or services therefor as may be within its legal power to furnish.

CONSOLIDATION AND TRANSFER OF SERVICES

7-11-301. Purpose.

(1) The purpose of this part is to provide procedures for the electors of local governments to consolidate or transfer the administrative and financial responsibility for services between or among municipalities and counties.

(2) Nothing in this part is to be construed as in any way affecting the authority of local governments to enter into interlocal agreements or contracts as provided by law.

7-11-302. Consolidation and transfer of services.

(1) A consolidation or transfer of services between or among municipalities may be proposed by a petition of the electors or on a recommendation of an interlocal cooperation commission as provided in 7-11-230.

(2) A petition or recommendation may propose to consolidate or transfer the administrative or financial responsibility or any administrative service, activity, or undertaking that any of the local governments included in the proposed consolidation or transfer are authorized by law to perform.

(3) Notwithstanding the requirements of 7-32-101, a petition or recommendation may propose to consolidate or transfer any law enforcement administrative service, activity, or undertaking between or among local governments.

7-11-303. Petition for consolidation or transfer of services.

(1) A petition or recommendation for the consolidation or transfer of the administrative and financial responsibility for services between or among local governments may be presented to the governing bodies of the local governments affected by the consolidation or transfer.

(2) A petition must be signed by at least 15% of the electors registered at the last general election of the local governments affected by the proposed consolidation or transfer.

(3) Whenever the consolidation or transfer of a service between a county and municipality is proposed by petition, the petition must be signed by at least 15% of the electors residing in each municipality included in the service consolidation or transfer and 15% of the electors residing in the remainder of the county.

(4) Upon determination of the sufficiency of the petition or upon receipt of a recommendation of the interlocal cooperation commission, the governing body of each of the local governments affected by the proposed consolidation or transfer shall call an election on the transfer or consolidation as provided in 7-11-307.

7-11-304. Service plan.

(1) The petitioners or the interlocal cooperation commission shall prepare a service plan governing the service or activity proposed to be transferred or consolidated.

(2) The plan shall provide:

(a) the nature of service or function to be consolidated or transferred;

(b) the effective date of the proposed consolidation or transfer;

(c) the responsibility for administration of the service to be consolidated or transferred, including the succession of the performance of duties currently performed by an elected officer if the elective status of an office is affected;

(d) the manner in which affected employees currently engaged in the performance of the function will be transferred, reassigned, or otherwise treated;

(e) the manner in which real property, facilities, equipment, or other personal property required in the exercise of the function are to be transferred, sold, or otherwise disposed of;

(f) the method of financing, establishing, and maintaining a budget for the service; and

(g) other legal, financial, and administrative arrangements necessary to effect the transfer in an orderly and equitable manner.

(3) The service plan may include provisions for an administrator or joint board responsible for administering any joint or cooperative undertaking.

(4) The service plan shall be attached to the petition or to the interlocal cooperation commission's recommendation when it is submitted to the governing bodies affected by the service consolidation or transfer.

7-11-305. Availability of petition or recommendation and service plan.

(1) Sufficient copies of the petition or recommendation of the interlocal cooperation commission proposing a service consolidation or transfer and the service plan must be made available to the public for inspection at convenient locations and at reasonable hours to provide all interested persons an opportunity to review the recommendations and documents. The copies must be available no later than 30 days prior to an election on the proposal if an election is to be held. If the election is held, it must be held in conjunction with a regular or primary election.

(2) Each local government affected by the proposal may distribute copies of the service plan to its residents.

7-11-306. Publication of summary and comparison.

(1) A summary of the recommendations contained in a petition or recommendation and the service plan proposing the consolidation or transfer of a service or activity must be published at least twice in a newspaper of general circulation in each local government affected by the proposal. The publication must be made during the 2 weeks preceding the election.

(2) The summary must contain a description of the recommendations, a comparison of the existing and proposed methods of service delivery, and a list of locations where the full proposal may be seen or obtained.

(3) The cost of publication required by this section shall be shared by the affected local governments.

7-11-307. Election on service consolidation or transfer.

(1) The governing bodies of each local government affected by a proposed service consolidation or transfer shall jointly call a special election on the question of service consolidation or transfer, to be held in conjunction with a regular or primary election. The county election administrator shall prepare and print notices of the special election.

(2) The cost of the election must be shared by the affected local governments in proportionate shares as agreed to by the governing bodies of the local governments.

7-11-308. General ballot requirements.

(1) The question of adopting a service consolidation or transfer shall be submitted to the electors of the local governments affected by the proposal in substantially the following form:

Shall the plan for (consolidation or transfer) of (insert name of service or function) services proposed in the (petition or recommendation of the interlocal cooperation commission) and service plan to the (insert the names of local government units) be adopted?

[] YES.

[] NO.

(2) If the question of adopting a service consolidation or transfer alters the elective status of any elected county official, it shall be submitted to the electors of the local governments affected by the proposal in substantially the following form:

[] For adoption of (consolidation or transfer) of (insert name of service or function) proposed in the (petition or recommendation of the interlocal cooperation commission) and service plan to the (insert names of local government units) in which the office of (insert name of county office) is (insert description of changes in elective status).

[] For existing service delivery arrangements.

(3) In any election involving the question of service consolidation or transfer, an affirmative vote of a simple majority of those voting on the question is required for adoption.

(4) If the electors disapprove the proposed service consolidation or transfer, each local government retains its existing service delivery method until changed or modified as provided by law.

(5) Except for nonsubstantive adjustments required to insure efficient and effective operations, a service consolidation or transfer effected by the procedures contained in this part may be amended or otherwise changed only in the same manner as required for its adoption.

7-11-309. Effect of adoption of service consolidation or transfer.

The adoption of a service consolidation or transfer does not affect the validity of any bond, debt, contract, collective bargaining agreement, obligation, or cause of action accrued or established by any affected local government prior to the consolidation or transfer.

7-11-310. Judicial review.

(1) Judicial review to determine the validity of the procedures used in adopting any service consolidation or transfer may be initiated by petition in district court of 10 or more registered electors of each local government affected by the consolidation or transfer brought within 60 days after the election adopting the service consolidation or transfer. If no petition is filed within that period, compliance with all the procedures required by 7-11-303 through 7-11-310 and the validity of the manner in which the service consolidation or transfer was approved is conclusively presumed.

(2) It is presumed that proper procedure was followed and all procedural requirements were met. The adoption of a service consolidation or transfer may not be considered invalid because of any procedural error or omission unless it is shown that the error or omission materially and substantially affected its adoption.

MULTIJURISDICTIONAL SERVICE DISTRICTS

7-11-1101. Authority to form multijurisdictional service district.

Municipalities and counties may form multijurisdictional service districts to provide:

(1) a higher level of service than is available through the local governments forming such a district; or

(2) services that are not available through the governments forming such a district.

7-11-1102. Services that may be provided.

(1) A multijurisdictional service district may provide only those services that are authorized to be provided by local governments.

(2) The services that a multijurisdictional service district may provide are:

(a) recreation programs other than park and recreation programs in a county park district established under Title 7, chapter 16, part 24;

(b) road, street, and highway maintenance;

(c) libraries;

(d) jails;

(e) dog control programs;

(f) ambulance service;

(g) dispatch service;

(h) protection of human health and the environment, including scenic concerns and recreational activities for areas requiring or involving environmental reclamation;

(i) health services and health department functions; and

(j) maintenance or provision of any public infrastructure facility, project, or service.

7-11-1105. Creation of district.

(1) A multijurisdictional service district is established by an interlocal agreement among participating jurisdictions, as authorized by an ordinance of each of the jurisdictions, to form the district. An ordinance, for the purposes of this part, includes a resolution of a county not having the power to enact ordinances.

(2) The authorizing ordinance may be passed by the governing body of the jurisdiction or it may be initiated by a petition signed by 15% of the resident property taxpayers of the area proposed for the district in each jurisdiction.

(3) Prior to determining the boundary of the district, the governing body or persons preparing a petition shall consult with the county election administrator to prepare a description of the boundary of the proposed district. As far as practical, the boundary shall follow precinct, school district, municipal, and county lines. The boundary description must be mapped and clearly described.

7-11-1106. Ordinance and petition requirements.

An ordinance or petition for an ordinance to authorize a multijurisdictional service district must include: (1) the name of the proposed district;

(2) the services to be provided by the proposed district;

(3) a statement of convenience and necessity;

(4) a boundary map of the proposed district;

(5) estimated costs of services and methods of financing the district;

(6) the method of administering the proposed district; and

(7) subject to 15-10-420, the maximum property tax mill levy for property taxes in the district.

7-11-1107. Adoption of ordinance — protest.

(1) Upon receipt of a petition to enact an authorizing ordinance, the governing body of each jurisdiction may either adopt the substantive provisions of the petition as an ordinance or decline to adopt an authorizing ordinance for the district. The action on the petition is subject to the provisions of initiative and referendum as provided in 7-5-131 through 7-5-137.

(2) (a) Upon adoption of a multijurisdictional service district authorizing ordinance, notice must be published in a newspaper of general circulation in the jurisdiction.

(b) Each notice must set forth the text or substance of the ordinance and the text of subsection (2)(c).

(c) Within 30 days of the publication of the notice, electors or property owners of each portion of the proposed district may submit written protests to the local government clerk. If more than 50% of the electors, or the owners of more than 50% of the taxable value of the property, in the affected portion of any one of the jurisdictions proposed for inclusion in the district protest the ordinance of that jurisdiction, the ordinance is void.

7-11-1111. Administration.

(1) A multijurisdictional service district must be administered according to an interlocal agreement among the participating jurisdictions within the district.

(2) The governing body of a multijurisdictional service district may consist of the entire membership of all governing bodies of the participating jurisdictions, or it may be a joint board with representation as set forth in the interlocal agreement forming the district.

(3) An interlocal agreement under this part may enlarge an existing service district or city or county library, but it may not supersede or void an existing contract or interlocal agreement under which the same service is currently provided to residents of one or more of the participating jurisdictions.

(4) A library established under this part as a multijurisdictional service must be administered according to the provisions of 22-1-305 through 22-1-317.

7-11-1112. Financing.

(1) Local governments organizing a multijurisdictional service district are authorized to levy property taxes in an amount not to exceed that authorized for the district in 7-11-1106 and to appropriate funds derived from other than general tax

revenues for the operation of the district. Subject to 15-10-420, property taxes levied for a library established under this part as a multijurisdictional service must be added to taxes levied under 22-1-304.

(2) A property tax levied for the purpose of financing the district must, for all agricultural property having an area greater than 10 acres, be levied only on the principal residential dwelling, if any, on the property.

TAX-EXEMPT PROPERTY

15-6-201. ***(Temporary)*** **Exempt categories.**

(1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;...

[COAL SEVERANCE TAXES] GENERAL PROVISIONS

15-35-108. Disposal of severance taxes.

Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501, be allocated as follows: (1) Fifty percent of total coal severance tax collections is allocated to the trust fund created by Article IX, section 5, of the Montana constitution. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Twelve percent of coal severance tax collections is allocated to the long-range building program account established in 17-7-205.

(3) The amount of 8.36% must be credited to an account in the state special revenue fund to be allocated by the legislature for local impacts, county land planning, provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act. Expenditures of the allocation may be made only from this account. Money may not be transferred from this account to another account other than the general fund. Any unreserved fund balance at the end of each fiscal year must be deposited in the general fund.

(4) The amount of 1.27% must be allocated to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(5) The amount of 0.95% must be allocated to the debt service fund type to the credit of the renewable resource loan debt service fund.

(6) Beginning July 1, 1997, and ending June 30, 1999, the amount of 0.87% must be allocated to an account in the state special revenue fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Beginning July 1, 1999, the amount of 0.63% must be allocated to a trust fund for the purpose of protection of works of art in the capitol and for other cultural and aesthetic projects. Income from this trust fund must be appropriated for protection of works of art in the state capitol and for other cultural and aesthetic projects.

(7) All other revenue from severance taxes collected under the provisions of this chapter must be credited to the general fund of the state.

BOARD OF PUBLIC EDUCATION

20-2-121. Board of public education — powers and duties.

The board of public education shall:

...(8) approve or disapprove educational media selected by the superintendent of public instruction for the educational media library in accordance with the provisions of 20-7-201;

SUPERINTENDENT OF PUBLIC INSTRUCTION

20-3-104. Discretionary staff.

In addition to the positions of employment listed in 20-3-103 , the superintendent of public instruction may employ: (1) one or more assistant superintendents, one of whom may be designated as assistant superintendent for vocational education;

(2) a high school supervisor who is the holder of a class 3 teacher certificate with a district superintendent endorsement;

(3) an elementary supervisor who is the holder of a valid teacher certificate;

(4) a competent person to develop economy and efficiency in school transportation and to otherwise supervise the transportation program;

(5) a music supervisor who is a graduate of an accredited institution of higher education in music education and who has not less than 5 years of teaching experience;

(6) an educational media supervisor who is a graduate of an accredited institution of higher education and who has experience in the field of educational media; and

(7) any other supervisors or assistants as may be required to carry out the duties of his office.

DISTRICT SUPERINTENDENT AND PRINCIPAL

20-4-402. Duties of district superintendent or county high school principal.

The district superintendent or county high school principal is the executive officer of the trustees and, subject to the direction and control of the trustees, he shall: (1) have general supervision of all schools of the district and the personnel employed by the district;

(2) implement and administer the policies of the trustees of the district;

(3) develop and recommend courses of instruction to the trustees for their consideration and approval in accordance with the provisions of 20-7-111;

(4) select all textbooks and submit the selections to the trustees for their approval in accordance with the provisions of 20-7-602;

(5) select all reference and library books and submit the selections to the trustees for their approval in accordance with provisions of 20-7-204;

(6) have general supervision of all pupils of the district, enforce the compulsory attendance provisions of this title, and have the authority to suspend for good cause any pupil of the district;

(7) report the pupil attendance, absence, and enrollment of the district and other pupil information required by the report form prescribed by the superintendent of public instruction to the county superintendent, or county superintendents when reporting for a joint district; and

(8) perform any other duties in connection with the district as the trustees may prescribe.

20-4-403. Powers and duties of principal.

(1) Whenever the trustees of a district employ and appoint a school principal but do not employ and appoint a district superintendent, such principal shall perform the duties of a district superintendent as prescribed in subsections (4), (5), (6), (7), and (8) of 20-4-402 and shall have general supervision of such school and the personnel assigned to such school.

(2) If granted authority by the board of trustees, a school principal in a district that does employ and appoint a district superintendent may suspend for good cause any pupil of the school where the principal is employed.

ACCREDITATION AND CURRICULUM

20-7-112. Sectarian publications prohibited and prayer permitted.

A publication of a sectarian or denominational character may not be distributed in any school. Instruction may not be given advocating sectarian or denominational doctrines. However, any teacher, principal, or superintendent may open the school day with a prayer. This section does not prohibit a school library from including the Bible or other religious material having cultural, historical, or educational significance.

[SCHOOL INSTRUCTION AND SPECIAL PROGRAMS] LIBRARIES

20-7-201. State visual, aural, and other educational media library.

A library of visual, aural, and other educational media shall be established and maintained by the superintendent of public instruction. The media shall be selected by the superintendent of public instruction on the basis of their usefulness as teaching aids and resources for schools and other educational groups within the state and shall be made available to such schools and groups on a rental fee basis. The rental fees for the use of the materials in the library shall be set by the superintendent of public instruction and shall be deposited in the audiovisual and media library account in the state special revenue fund. The superintendent of public instruction may use these funds, as well as any other funds advanced by a legislative appropriation to the audiovisual and media library account, for the operation, maintenance, enlargement, and other related costs of the library.

20-7-202. School library required.

The trustees of each district shall establish and maintain a school library in each school of the district. Each school library shall comply with at least the minimum requirements of the standards of accreditation adopted by the board of public education.

20-7-203. Trustees' policies for school library.

The trustees shall adopt those policies necessary for regulating the use and operation of school libraries. These policies may provide for the use of school libraries by the residents of the district, provided that such use does not interfere with the regular school use of the library.

20-7-204. School library book selection.

School library books shall be selected by the district superintendent or a principal if there is no district superintendent, subject to the approval of the trustees. In districts not employing a superintendent or principal, the trustees shall select the school library books on the basis of recommendations of the county superintendent.

20-7-205. Reporting school library information.

The trustees shall report school library information requested by the superintendent of public instruction, by the board of public education, or when there is no district superintendent or principal, by the county superintendent.

UNIVERSITY UNITS

20-25-212. Bureau of mines and geology — purpose.

The bureau of mines and geology shall: (1) compile and publish statistics relative to Montana geology, mining, milling, and metallurgy;

(2) collect:

(a) typical geological and mineral specimens;

(b) samples of products;

(c) photographs, models, and drawings of appliances used in the mines, mills, and smelters of Montana; and

(d) a library and a bibliography of literature relative to the progress of geology, mining, milling, and smelting in Montana;...

MONTANA EDUCATIONAL TELECOMMUNICATIONS [NETWORK]
GENERAL

20-32-101. Purpose — definition.

(1) The purpose of this part is to establish a Montana educational telecommunications network.

(2) For the purposes of this part, "network" means the Montana educational telecommunications network (METNET).

(3) The aims of the network are to provide:

(a) instructional and educational coursework and materials through telecommunications delivery to students in kindergarten through 12th grade in the Montana public school system;

(b) instructional and educational coursework and materials through telecommunications delivery to students enrolled in units of the Montana university system and the community colleges;

(c) instructional and professional development or other appropriate inservice training for teachers in the schools of the state; and

(d) telecommunications capabilities to agencies, subdivisions of state government, and public libraries in order to improve their ability to perform their responsibilities and duties.

20-32-102. Agency cooperation — responsibilities.

(1) To meet the objectives of the network, the following entities shall cooperate with one another:

(a) the department of administration, with its responsibilities for telecommunications for agencies of state government;

(b) the superintendent of public instruction, with a supervisory role over the public system of elementary and high schools; and

(c) the commissioner of higher education, with responsibilities to the Montana university system and the community colleges.

(2) The responsibilities of the superintendent of public instruction to the network include but are not limited to:

(a) general supervision of delivery of educational materials through telecommunications to elementary and high school districts in the state;

(b) compilation, maintenance, and dissemination to participating school districts of information that identifies the educational programming available from within and from outside the state;

(c) training of teachers and other school personnel in the use of telecommunications technologies for instructional purposes;

(d) assistance to school districts in identifying and procuring the telecommunications technologies needed to interface with the network;

(e) identification of production capability for telecommunication of educational materials;

(f) assistance to participating school districts with group purchases of instructional and educational materials;

(g) coordination with the commissioner of higher education and the units of the Montana university system to offer advanced placement courses, teacher inservice training, and other instruction through the network;

(h) payment of the superintendent's share of the network costs to the department of administration, as provided in 20-32-104;

(i) coordination with the department of administration to ensure compatibility of network components, to minimize duplication of efforts on behalf of the network, and to maximize use of the network by school districts; and

(j) determination of kinds of equipment, inservice, and district accounting necessary to implement the provisions of this part for school districts.

(3) The responsibilities of the department of administration to the network include but are not limited to:

(a) provision of technical support to the coordinating agencies referred to in subsection (1);

(b) development of standards of compatibility for the network;

(c) procurement and management of network equipment and facilities that have shared use by multiple users or agencies;

(d) assistance with procurement, installation, maintenance, and operation of end-terminal equipment and facilities of the network;

(e) minimizing any duplication of equipment and facilities within the network and in conjunction with the department of administration's other networking capabilities;

(f) coordination of use of the network by state agencies, subdivisions of the state, and public libraries in a manner that does not interfere with the delivery of the primary network function of providing educational services to school districts and state units of higher education;

(g) studying the use of the network by Native American tribal colleges and other nonpublic education institutions in the state, with the long-range goal of coordinating the use of the network with those entities; and

(h) maintenance of cost and usage records and a billing system for user agencies for services rendered that incur marginal costs for the network.

(4) The responsibilities of the commissioner of higher education to the network include but are not limited to:

(a) coordination of the use of the network among the units of higher education and with the superintendent of public instruction and the department of administration;

(b) assistance to the units of the Montana university system to provide college credit courses through the network to students throughout the state;

(c) coordination with the superintendent of public instruction to develop advance placement courses for high school students in Montana, teacher inservice training, and other services and instruction through the network;

(d) assistance to the units of the Montana university system and the community colleges in defining their specific needs for interfacing with the network;

(e) assistance to participating units, centers, and colleges with group purchases of instructional and educational materials; and

(f) determination of the kinds of equipment, inservice, and accounting necessary to implement the provisions of this part for the university system and community colleges.

20-32-103. Fee collection and disposition for operational costs.

As a condition of participation in the network, the Montana university system and community colleges shall collect from appropriate discretionary funds in a manner approved by the board of regents an amount not to exceed $5 for each full-time equivalent student enrolled in the units or colleges. The funds collected must be deposited with the commissioner of higher education for the purposes of 20-32-102(4). The commissioner of higher education shall pay the department of administration the commissioner's share of the network costs.

20-32-104. Apportionment of costs.

The superintendent of public instruction and the commissioner of higher education shall share on a prorated basis according to the related student counts any costs incurred by the department of administration for the purposes of 20-32-102 (3).

STATE LIBRARY COMMISSION

22-1-101. State library commission established.

(1) There is a state library commission.

(2) This commission is composed of the following members:

(a) the state superintendent of public instruction or his designee;

(b) five persons appointed by the governor, who shall serve staggered terms of 3 years; and

(c) a librarian appointed by the commissioner of higher education from one of the six units of the Montana university system, who shall serve a term of 3 years.

(3) The commission shall annually elect a chairman from its membership.

(4) The members of said commission shall be compensated and receive travel expenses as provided for in 2-15-124.

22-1-102. Librarian and assistants.

The commission shall employ as its executive officer a librarian, who is a graduate of an accredited library school and is not a member of the commission, for such compensation as the commission considers adequate. The executive officer shall perform the duties assigned by the commission and serve at the will of the commission. The commission may also employ such other assistants as are required for the performance of the commission's work. In addition to their salaries while on commission business, the librarian and assistants shall be allowed their travel expenses, as provided for in 2-18-501 through 2-18-503, as amended.

22-1-103. State library commission — authority.

The state library commission may: (1) give assistance and advice to all tax-supported or public libraries in the state and to all counties, cities, towns, or regions in the state that propose to establish libraries, as to the best means of establishing and improving those libraries;

(2) maintain and operate the state library and make provision for its housing;

(3) (a) accept and expend in accordance with the terms of a grant any grant of federal funds that is available to the state for library purposes;

(b) accept, receive, and administer any gifts, donations, bequests, and legacies made to the Montana state library. Unless otherwise provided by the donor, gifts, donations, bequests, and legacies must be deposited in the Montana state library trust established in 22-1-225.

(4) make rules and establish standards for the administration of the state library and for the control, distribution, and lending of books and materials;

(5) serve as the agency of the state to accept and administer any state, federal, or private funds or property appropriated for or granted to it for library service or foster libraries in the state and establish regulations under which funds must be disbursed;

(6) provide library services for the blind and for individuals with physical disabilities;

(7) furnish, by contract or otherwise, library assistance and information services to state officials, state departments, and residents of those parts of the state inadequately serviced by libraries;

(8) act as a state board of professional standards and library examiners, develop standards for public libraries, and adopt rules for the certification of librarians;

(9) designate areas for the establishment of federations of libraries and designate the headquarters library for the federations.

STATE LIBRARY

22-1-201. State library authorized.

The state library commission shall maintain and operate a state library to be located in Helena.

22-1-211. Definitions.

As used in this part, the following definitions apply:

(1) "Print" includes all forms of printing and duplicating, regardless of format or purpose, with the exception of correspondence and interoffice memoranda.

(2) "State agency" includes every state office, officer, department, division, bureau, board, commission, and agency of the state and, where applicable, all subdivisions of each.

(3) "State publication" includes any document, compilation, journal, law, resolution, bluebook, statute, code, register, pamphlet, list, book, proceedings, report, memorandum, hearing, legislative bill, leaflet, order, regulation, directory, periodical, or magazine issued in print or purchased for distribution by the state, the legislature, constitutional officers, any state department, committee, or other state agency supported wholly or in part by state funds.

22-1-212. Creation of distribution center.

There is hereby created, as a division of the state library and under the direction of the state librarian, a state publications library distribution center. The center shall promote the establishment of an orderly depository library system. To this end the state library commission shall make such rules necessary to carry out the provisions of this part.

22-1-213. State agency publications to be deposited in state library — interlibrary loan — sale publications.

Every state agency shall deposit upon release at least four copies of each of its state publications with the state library for record and depository purposes. Additional copies shall also be deposited in quantities certified to the agencies by the state library as required to meet the needs of the depository library system and to provide interlibrary loan service to those libraries without depository status. Additional copies of sale publications required by the state library shall be furnished only upon reimbursement to the state agency of the full cost of such sale publications, and the state library shall also reimburse any state agency for additional publications so required where the quantity desired will necessitate additional printing or other expense to such agency.

22-1-214. Depository libraries — eligibility.

The center shall enter into depository contracts with any municipal or county free library, state college or state university library, the library of congress, the midwest interlibrary center, and other state libraries. The requirements for eligibility to contract as a depository library shall be established by the state library commission upon recommendations of the state librarian. The standards shall include and take into consideration the type of library, ability to preserve such publications and to make them available for public use, and also such geographical locations as will make the publications conveniently accessible to residents in all areas of the state.

22-1-215. Available publications.

The center shall publish and distribute regularly to contracting depository libraries and other libraries upon request a list of available state publications.

22-1-216. Current publications.

Upon request by the center, issuing state agencies shall furnish the center with a complete list of their current state publications and a copy of their mailing and/or exchange lists.

22-1-217. No general public distribution.

The center shall not engage in general public distribution of either state publications or lists of publications.

22-1-218. Exemptions.

This part does not apply to officers of or affect the duties concerning publications distributed by: (1) the state law library;

(2) the code commissioner in connection with duties under Title 1, chapter 11, as amended; and

(3) the legislative services division in connection with its duties under 5-11-203, as amended.

22-1-225. Montana state library trust — interest retention.

(1) There is an account in the fiduciary fund category expendable trust fund type to be known as the Montana state library trust, to be used as provided in 22-1-226.

(2) Interest and earnings of the account must be retained by the account.

22-1-226. Use of Montana state library trust.

(1) The principal of the Montana state library trust established in 22-1-225 is intended to be an expendable trust subject to investment by the board of investments in accordance with investment principles established for the investment of state funds in Title 17, chapter 6, part 2.

(2) Unless otherwise provided by the donor, donations received pursuant to 22-1-103 must be placed in the Montana state library trust.

(3) Interest earned on the principal of the Montana state library trust may be used for providing library service to Montanans, including those who, because of disability, cannot read standard print.

(4) Revenue that is not expended on the service authorized in subsection (3) and that is not expended at the end of each fiscal year remains in the Montana state library trust for investment as provided in subsection (1).

(5) The provisions of 17-2-108 that require the expenditure of nongeneral fund money prior to the expenditure of general fund money do not apply to the expenditure of revenue made available to the library from the Montana state library trust.

FREE PUBLIC LIBRARIES

22-1-301. Definitions.

Unless otherwise provided, the following definitions apply in this part: (1) "City" means city or town.

(2) "Commission" means the state library commission.

(3) "Public library" means a library created under 22-1-303 through 22-1-317 that provides library services to the public by means of central facilities, branch facilities, or bookmobiles.

(4) "State multilibrary card" means a card that is issued to a Montana resident by a public library created under Title 7 or under 22-1-303 and that may be used for library services in every public library in the state.

22-1-302. Purpose.

It is the purpose of this part to encourage the establishment, adequate financing, and effective administration of free public libraries in this state to give the people of Montana the fullest opportunity to enrich and inform themselves through reading.

22-1-303. Creation of public library.

A public library may be established in any county or city in any of the following ways: (1) The governing body of any county or city desiring to establish and maintain a public library may pass and enter upon its minutes a resolution to the effect that a free public library is established under the provision of Montana laws relating to public libraries.

(2) A public library may be established by a petition that is signed by not less than 10% of the resident taxpayers whose names appear upon the last completed assessment roll of the city or county and that is filed with the governing body requesting the establishment of a public library. The governing body of a city or county shall set a time of meeting at which it may by resolution establish a public library. The governing body shall give notice of the contemplated action in a newspaper of general circulation for 2 consecutive weeks giving the date and place of the meeting at which the contemplated action is proposed to be taken.

(3) (a) Upon a petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election, the governing body shall submit to a vote of the qualified electors at the next general election the question of whether a free public library is to be established.

(b) If a petition is submitted for a city, the petition must be signed by resident taxpayers of the city.

(c) If a petition is submitted to the county commissioners of a county asking for the establishment of a county library, the petition must be signed by resident taxpayers of the county who reside outside the corporate limits of an incorporated city that is located in the county and that may already have established a free public library for the city.

(d) If the petition specifically asks that a special election be called and the petition is signed by 35% of the resident freeholders affected by the petition, then the governing body shall, upon receipt of the petition, immediately set a date for a special election. The special election must be held in conjunction with a regular or primary election.

(e) If at the election a majority of the electors voting on the question vote in favor of the establishment of a library, the governing body shall immediately take the necessary steps to establish and maintain the library or to contract with any city or county for library service to be rendered to the inhabitants of the city or county.

22-1-304. Tax levy — special library fund — bonds.

(1) The governing body of any city or county which has established a public library may levy in the same manner and at the same time as other taxes are levied a special tax in the amount necessary to maintain adequate public library service, not to exceed 5 mills on the dollar, upon all property in such county which may be levied by the governing body of such county and not to exceed 7 mills on the dollar upon all property in such city which may be levied by the governing body of such city.

(2) (a) The governing body of a city or county may by resolution submit the question of exceeding the maximum tax levy provided in subsection (1) to a vote of the qualified electors at the next appropriate election or at a special election as provided for in Title 13. The resolution must be adopted at least 75 days prior to the election at which the question will be voted on.

(b) Upon petition being filed with the governing body and signed by not less than 5% of the resident taxpayers of any city or county requesting an election for the purpose of exceeding the maximum mill levy, the governing body shall submit to a vote of the qualified electors thereof at the next election or at a special election as provided for in Title 13 the question of exceeding the maximum mill levy. Such petition must be delivered to the governing body at least 90 days prior to the general election at which the question will be voted on.

(c) The question shall be submitted by ballots upon which the words "FOR exceeding the ... mill maximum levy and authorizing an additional ... mill(s) for the library" and "AGAINST exceeding the ... mill maximum library levy" shall appear, with a square before each proposition and a direction to insert an "X" mark in the square before one or the other of the propositions.

(d) The ballots must also specify the amount of time during which the proposed increase exceeding the maximum mill levy is to be in effect.

(e) The votes cast for the adoption or rejection of the question must be canvassed, and:

(i) if a majority of the voters voting on the question vote to exceed the maximum mill levy, the governing body shall levy the additional tax for the time specified on the ballot; or

(ii) if a majority of the voters voting on the question vote to not exceed the maximum mill levy, the maximum mill levy may not be exceeded.

(3) The municipal tax authorized in this section is in addition to all other taxes authorized by law and is not within the all-purpose mill levy established by 7-6-4451 through 7-6-4453.

(4) The proceeds of such tax shall constitute a separate fund called the public library fund and shall not be used for any purpose except those of the public library.

(5) No money shall be paid out of the public library fund by the treasurer of the city or county except by order or warrant of the board of library trustees.

(6) Bonds may be issued by the governing body in the manner prescribed by law for the following purposes:

(a) building, altering, repairing, furnishing, or equipping a public library or purchasing land for the library;

(b) buying a bookmobile or bookmobiles; and

(c) funding a judgment against the library.

22-1-305. Library depreciation reserve fund authorized.

The governing body of any city or county or a combination of city and county in Montana may establish a library depreciation reserve fund for the replacement and acquisition of property, capital improvements, and equipment necessary to maintain and improve city, county, or city-county library services.

22-1-306. Moneys for library depreciation reserve fund.

Moneys for the library depreciation reserve fund are those funds which have been allocated to the library in any year but which have not been expended by the end of the year. Such moneys include but are not limited to city or county or city-county appropriations, federal revenue sharing funds, and public and private grants.

22-1-307. Investment of fund.

The moneys held in the library depreciation reserve fund may be invested as provided by law. All interest earned on the fund must be credited to the library depreciation reserve fund.

22-1-308. Public library — board of trustees.

(1) Upon the establishment of a public library under the provisions of this part, the mayor, with the advice and consent of the city council or city commissioners, shall appoint a board of trustees for the city library and the chairman of the board of county commissioners, with the advice and consent of said board, shall appoint a board of trustees for the county library.

(2) The library board shall consist of five trustees. Not more than one member of the governing body shall be, at any one time, a member of such board.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall hold their office for 5 years from the date of appointment and until their successors are appointed. Initially, appointments shall be made for 1-, 2-, 3-, 4-, and 5-year terms. Annually thereafter, there shall be appointed before July 1 of each year in the same manner as the original appointments for a 5-year term, a trustee to take the place of the retiring trustee. Trustees shall serve no more than two full terms in succession.

(5) Following such appointments, in July of each year, the trustees shall meet and elect a chairman and such other officers as they deem necessary, for 1-year terms. Vacancies in the board of trustees shall be filled for the unexpired term in the same manner as original appointments.

22-1-309. Trustees — powers and duties.

The library board of trustees shall have exclusive control of the expenditure of the public library fund, of construction or lease of library buildings, and of the operation and care of the library. The library board of trustees of every public library shall: (1) adopt bylaws and rules for its own transaction of business and for the government of the library, not inconsistent with law;

(2) establish and locate a central public library and may establish branches thereof at such places as are deemed necessary;

(3) have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state library, and other libraries, to give and receive library service, through the boards of such regions, counties, and cities and the district school boards, and to pay out or receive funds to pay costs of such contracts;

(4) have the power to acquire, by purchase, devise, lease or otherwise, and to own and hold real and personal property in the name of the city or county or both, as the case may be, for the use and purposes of the library and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the library and to insure the real and personal property of the library;

(5) pay necessary expenses of members of the library staff when on business of the library;

(6) prepare an annual budget, indicating what support and maintenance of the public library will be required from public funds, for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property.

(7) make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as shall be required by the Montana state library in its request for an annual report from the public libraries and shall submit such an annual report to the state library.

(8) have the power to accept gifts, grants, donations, devises, or bequests of property, real or personal, from whatever source and to expend or hold, work, and improve the same for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year.

(9) exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

22-1-310. Chief librarian — personnel — compensation.

The board of trustees of each library shall appoint and set the compensation of the chief librarian who shall serve as the secretary of the board and shall serve at the pleasure of the board. With the recommendation of the chief librarian, the board shall employ and discharge such other persons as may be necessary in the administration of the affairs of the library, fix and pay their salaries and compensation, and prescribe their duties.

22-1-311. Use of library — privileges.

Every library established under the provisions of this part shall be free to the use of the inhabitants of the city or the county supporting such library. The board may exclude from the use of the library any and all persons who shall willfully violate the rules of the library. The board may extend the privileges and use of the library to persons residing outside of the city or county upon such terms and conditions as it may prescribe by its regulations.

22-1-312. Cooperation and merger.

Library boards of trustees, boards of other educational institutions, library agencies, and local political subdivisions are hereby empowered to cooperate, merge, or combine in providing library service.

22-1-313. Existing tax-supported libraries — notification — exemption from county taxes.

After the establishment of a county free library as provided in this part, the governing body of any city which has an existing tax-supported public library may notify the board of county commissioners that such city does not desire to be a part of the county library system. Such notification shall exempt the property in such city from liability for taxes for county library purposes.

22-1-314. Continued existence of all public libraries.

All public libraries heretofore established shall continue in existence, subject to the changes in administration provided herein.

22-1-315. City library may assume functions of county library.

(1) Instead of establishing a separate county free library, the board of county commissioners may enter into a contract with the board of library trustees or other authority in charge of the free public library of any incorporated city, and the board of library trustees or other authority in charge of such free public library is hereby authorized to make such a contract.

(2) Such contract may provide that the free public library of such incorporated city shall assume the functions of a county free library within the county with which such contract is made, and the board of county commissioners may agree to pay out of the county free library fund into the library fund of such incorporated city such sum as may be agreed upon.

(3) Either party to such contract may terminate the same by giving 6 months' notice of intention to do so.

22-1-316. Joint city-county library.

(1) A county and any city or cities within the county, by action of their respective governing bodies, may join in establishing and maintaining a joint city-county library under the terms of a contract agreed upon by all parties.

(2) The expenses of a joint city-county library shall be apportioned between or among the county and cities on such a basis as shall be agreed upon in the contract.

(3) Subject to 15-10-420, the governing body of any city or county entering into a contract may levy a special tax as provided in 22-1-304 for the establishment and operation of a joint city-county library.

(4) The treasurer of the county or of a participating city within the county, as shall be provided in the contract, shall have custody of the funds of the joint city-county library, and the other treasurers of the county or cities joining in the contract shall transfer quarterly to him all moneys collected for the joint city-county library.

(5) The contract shall provide for the disposition of property upon dissolution of the joint city-county library.

22-1-317. City-county library — board of trustees.

(1) A joint city-county library shall be governed by a board of trustees composed of five members chosen as specified in the contract, with terms not to exceed 5 years.

(2) Trustees shall serve no more than two full terms in succession.

(3) Trustees shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

(4) Trustees shall meet and elect a chairman and such other officers as they consider necessary for 1-year terms.

(5) The board of trustees shall have the same powers and duties as the board of trustees of a city library or a county library.

22-1-325. Short title.

Sections 22-1-325 through 22-1-331 may be cited as the "Information Access Montana Act."

22-1-326. State aid to public libraries.

(1) As used in 22-1-326 through 22-1-331, "public library" means a library created under Title 7 or under 22-1-301 through 22-1-317.

(2) As provided in 22-1-325 through 22-1-329, the commission shall administer state aid to public libraries. The purposes of state aid are to:

(a) broaden access to existing information by strengthening public libraries;

(b) augment and extend services provided by public libraries; and

(c) permit new types of library services based on local need.

(3) Money appropriated for the purposes of this section may not be used to supplant general operating funds of recipient public libraries. The commission may withhold a distribution to a library that receives less support from a mill levy or local government appropriation than its average for the preceding 3 fiscal years if such a decrease may reasonably be linked to money received or expected to be received under 22-1-325 through 22-1-329.

22-1-327. State aid — per capita — per square mile.

The commission shall distribute grants to public libraries on a per capita and per square mile basis.

22-1-328. State interlibrary loan program — reimbursement — eligibility.

(1) Each Montana library eligible for reimbursement under this section for participation in the statewide interlibrary loan program must be reimbursed according to the rules adopted by the commission.

(2) Libraries eligible for interlibrary loan reimbursement under this section include public libraries, libraries operated by public schools or school districts, libraries operated by public colleges or universities, libraries operated by public agencies for institutionalized persons, and libraries operated by nonprofit, private medical, educational, or research institutions.

(3) Notwithstanding subsections (1) and (2), the following types of interlibrary loans are not eligible for reimbursement:

(a) a loan between public school libraries located within the same public school district;

(b) a loan between an elementary school library and a high school library located within school districts with overlapping school district boundaries;

(c) a loan between libraries administered by a public library.

22-1-329. State multilibrary card.

The commission shall develop a program to allow Montana libraries to issue to residents a state multilibrary card as defined in 22-1-301 .

22-1-330. Commission rulemaking authority.

The commission may adopt rules and procedures for:

(1) the distribution of state aid to public libraries on a per capita and per square mile basis;

(2) for issuance of state multilibrary cards;

(3) reimbursement for interlibrary loan lending;

(4) distribution of base grants provided for in 22-1-331; and

(5) the composition of the library federation board of trustees, as provided in 22-1-404.

22-1-331. Base grants.

The commission shall provide a base grant for each public library to support the cooperative activities and services of the six library federations in the state.

LIBRARY SYSTEMS

22-1-401. Policy.

It is the policy of the legislature to encourage the most efficient delivery of library services to the people of Montana. To that end the state should be divided into regions within which libraries desiring to participate in the distribution of such state funding to libraries as may be available from time to time shall organize into library federations to pool resources and information and avoid duplication of effort.

22-1-402. Library systems — definition.

(1) Library systems must include library federations or library networks.

(2) (a) A library federation is a combination of libraries serving a multicounty, multicity, or city-county area within a federation area designated by the state library commission. Any other public, school, special, college, or university library or town, city, or county within the federation area may participate in a federation.

(b) Two or more cities, towns, or counties; a city and one or more counties; or school, special, college, or university libraries may agree by contract to form a federation by action of their respective governing bodies or duly created boards of library trustees if one of the parties is or maintains a library that has been designated by the state library commission as a headquarters library for that federation area. The participating entities may retain the autonomy over their respective libraries specified in the contract.

(c) The expense of providing library services for the library federation must be based on funds received from the state or participating libraries as agreed upon in the contract. The funds of the federation must be maintained as a separate account as provided in the contract. Participating libraries shall transfer semiannually to the account all money collected for the federation in their respective jurisdiction.

(d) A participating entity may withdraw from a federation according to the terms for withdrawal provided in the contract by the action of its governing body or by a majority of its qualified voters voting at a general or special election. A special election must be held in conjunction with a regular or primary election.

(3) A library network is an agreement between individual libraries or library systems, which may be intercity, intrastate, or interstate, for the exchange of information or to provide specific library services not provided in existing library federations.

22-1-403. Participation in the federation.

(1) When a library federation shall have been established, the legislative body of any government unit in the designated library federation area may decide, with the concurrence of the board of trustees of its library if it is maintaining a library, to participate in the library federation. Each local entity may determine the amount of services it wishes to supply to fulfill the needs of its unit. After the necessary contract has been executed and beginning with the next fiscal year, the governmental unit shall participate in the library federation and its residents shall be entitled to the benefits of the library federation and property within its boundaries shall be subject to taxation for library federation purposes.

(2) The board of regents of higher education may contract with the government of any city or county, or the governments of both the city and the county, in which a unit of the Montana university system is located for the establishment and operation of joint library services. Any such contract which proposes the erection of a building shall be subject to the approval of the legislature. Any joint library services established pursuant to this section shall be operated and supported as provided in such contract and under this part.

22-1-404. Board of trustees — coordinator.

(1) In a library federation, there must be a board of trustees with advisory powers only, the operation of the library federation having been specified by contract. The state library commission, provided for in 22-1-101, shall adopt rules governing the composition of the federation board of trustees. A majority of the members of each federation board of trustees must be trustees of a public library, as defined in 22-1-326.

(2) The librarian of the headquarters library shall serve as the coordinator of the federation and as a nonvoting member of the federation advisory board of trustees.

22-1-405. Boards of trustees — authority — resolution of disagreements.

(1) The board of trustees of a library federation shall act as an advisor to the participating libraries and their boards of trustees.

(2) Control over the budgets and administrative policies of participating libraries shall remain in their boards of trustees as provided in 22-1-309.

(3) Any disagreement among participants in a library federation regarding the apportionment of funds or grants received from the state library commission shall be resolved by the state library commission.

22-1-412. Purpose.

It is the purpose of 22-1-413 and this section to establish a program whereby state funds may be appropriated to the Montana state library commission to provide the benefits of quality public library service to all residents of Montana by developing and strengthening local public libraries through library federations as defined in 22-1-402.

22-1-413. Administration by Montana state library commission.

The Montana state library commission shall receive and administer the appropriation for state funding to public library federations. The commission shall allocate such appropriation among such types of grant programs and shall allocate funds among federations according to such formulas for distribution as it shall establish from time to time by rules adopted pursuant to 22-1-103. Federations receiving state funds from the commission shall submit annual plans for the expenditure of state funds and report semiannually to the commission concerning the progress of the various projects for which state funding was received. The reports must contain an accounting for all state funds received.

LAW LIBRARY

22-1-501. State law library created.

The library formerly known as a department of the state library of Montana and called "the law library" is a separate and distinct library designated the "state law library of the state of Montana." The collections of laws, decisions of courts, law reports, textbooks, legal periodicals, and miscellaneous books and journals together with pamphlets, papers, maps, charts, and manuscripts in the law library or belonging to the law library or acquired by or donated to the law library constitute the law library, and the title to all of the property constituting the law library must be in the state of Montana, subject to the custody and control of the library board established in 22-1-502.

22-1-502. Location — control by board of trustees.

The state law library of the state of Montana shall be located in Helena, Montana, and shall be in the immediate custody and subject to the control of a board of trustees consisting of the chief justice and the justices of the supreme court of the state of Montana.

22-1-503. Authority of board.

The powers and duties of said board are as follows: (1) to make rules, not inconsistent with law, for the government of the board and for the government and administration of the state law library, including rules designating when and for what periods of time the library shall be open to the public and the office hours of the library;

(2) to appoint a librarian and prescribe the duties of such librarian when not otherwise provided for by law;

(3) to sell or exchange duplicate copies of books and pay the moneys arising therefrom into the state law library fund;

(4) to see that the books and other properties of the library are maintained in good order and repair and are protected from theft or injury;

(5) to draw from the state treasury, at any time when needed for the legitimate expenses in maintaining and operating the library and acquiring books, reports, journals, and other works and properties therefor, including complete sets of statutory laws and codified laws of the United States of America, of the several states of the union, and of other jurisdictions, any moneys in the fund and available for such purposes;

(6) to establish such lawful relations and working arrangements with the library of congress of the United States, with the copyright office therein, and with the superintendent of documents of the United States as may be for the benefit and advantage of the state law library and promote the acquisition of books and other works from such sources as may be useful to those resorting to the facilities of the state law library.

22-1-504. Duties of librarian.

The librarian shall develop and maintain an adequate collection and services to fulfill the needs of library users and shall establish procedures for the maintenance and control of the collection.

22-1-505. Use of library.

The state law library shall be maintained and operated for the use of the members of the supreme court, the members of the legislature, the several officers of the senate and of the house of representatives, for state officers and employees, for members of the bar of the supreme court of Montana, for members of the bar of supreme courts of other states while in attendance before the supreme court of Montana, and members of the general public agreeing to the rules established by the librarian.

22-1-506. Liability for injury to books or failure to return.

Every person who defaces, tears, or otherwise injures any book or other work or who fails to return any book taken by him is liable to the state in three times the value thereof if such book is not replaced by a new one or another book of identical title, in good order and condition; and no statute of limitations shall ever be effective against the claim of the state under this section.

INTERSTATE LIBRARY COMPACT

22-1-601. Library compact.

The Interstate Library Compact is hereby approved, enacted into law, and entered into by the state of Montana, which compact is in full as follows:

Article I. Policy and Purpose

Because the desire for the services provided by libraries transcends governmental boundaries and can most effectively be satisfied by giving such services to communities and people regardless of jurisdictional lines, it is the policy of the states party to this compact to cooperate and share their responsibilities; to authorize cooperation and sharing with respect to those types of library facilities and services which can be more economically or efficiently developed and maintained on a cooperative basis; and to authorize cooperation and sharing among localities, states, and others in providing joint or cooperative library services in areas where the distribution of population or of existing and potential library resources make the provision of library service on an interstate basis the most effective way of providing adequate and efficient service.

Article II. Definitions

As used in this compact: (1) "public library agency" means any unit or agency of local or state government operating or having power to operate a library;

(2) "private library agency" means any nongovernmental entity which operates or assumes a legal obligation to operate a library;

(3) "library agreement" means a contract establishing an interstate library district pursuant to this compact or providing for the joint or cooperative furnishing of library services.

Article III. Interstate Library Districts

(1) Any one or more public library agencies in a party state in cooperation with any public library agency or agencies in one or more other party states may establish and maintain an interstate library district. Subject to the provisions of this compact and any other laws of the party states which pursuant hereto remain applicable, such district may establish, maintain, and operate some or all of the library facilities and services for the area concerned in accordance with the terms of a library agreement therefor. Any private library agency or agencies within an interstate library district may cooperate therewith, assume duties, responsibilities, and obligations thereto, and receive benefits therefrom as provided in any library agreement to which such agency or agencies become party.

(2) Within an interstate library district, and as provided by a library agreement, the performance of library functions may be undertaken on a joint or cooperative basis or may be undertaken by means of one or more arrangements between or among public or private library agencies for the extension of library privileges to the use of facilities or services operated or rendered by one or more of the individual library agencies.

(3) If a library agreement provides for joint establishment, maintenance, or operation of library facilities or services by an interstate library district, such district shall have power to do any one or more of the following in accordance with such library agreement:

(a) undertake, administer, and participate in programs or arrangements for:

(i) securing, lending, or servicing books and other publications, any other materials suitable to be kept or made available by libraries, or library equipment; or

(ii) for the dissemination of information about libraries, the value and significance of particular items therein, and the use thereof;

(b) accept for any of its purposes under this compact any and all donations and grants of money, equipment, supplies, materials, and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof or interstate agency or from any institution, person, firm, or corporation and receive, utilize, and dispose of the same;

(c) operate mobile library units or equipment for the purpose of rendering bookmobile service within the district;

(d) employ professional, technical, clerical, and other personnel and fix terms of employment, compensation, and other appropriate benefits; and where desirable, provide for the in-service training of such personnel;

(e) sue and be sued in any court of competent jurisdiction;

(f) acquire, hold, and dispose of any real or personal property or any interest or interests therein as may be appropriate to the rendering of library service;

(g) construct, maintain, and operate a library, including any appropriate branches thereof;

(h) do such other things as may be incidental to or appropriate for the carrying out of any of the foregoing powers.

Article IV. Interstate Library Districts, Governing Board

(1) An interstate library district which establishes, maintains, or operates any facilities or services in its own right shall have a governing board which shall direct the affairs of the district and act for it in all matters relating to its business. Each participating public library agency in the district shall be represented on the governing board which shall be organized and conduct its business in accordance with provision therefor in the library agreement. But in no event shall a governing board meet less often than twice a year.

(2) Any private library agency or agencies party to a library agreement establishing an interstate library district may be represented on or advise with the governing board of the district in such manner as the library agreement may provide.

Article V. State Library Agency Cooperation

Any two or more state library agencies of two or more of the party states may undertake and conduct joint or cooperative library programs, render joint or cooperative library services, and enter into and perform arrangements for the cooperative or joint acquisition, use, housing, and disposition of items or collections of materials which, by reason of expense, rarity, specialized nature, or infrequency of demand therefor would be appropriate for central collection and shared use. Any such programs, services, or arrangements may include provision for the exercise on a cooperative or joint basis of any power exercisable by an interstate library district, and an agreement embodying any such program, service, or arrangement shall contain provisions covering the subjects detailed in Article VI of this compact for interstate library agreements.

Article VI. Library Agreements

(1) In order to provide for any joint or cooperative undertaking pursuant to this compact, public and private library agencies may enter into library agreements. Any agreement executed pursuant to the provisions of this compact shall, as among the parties to the agreement:

(a) detail the specific nature of the services, programs, facilities, arrangements, or properties to which it is applicable;

(b) provide for the allocation of costs and other financial responsibilities;

(c) specify the respective rights, duties, obligations, and liabilities of the parties;

(d) set forth the terms and conditions for duration, renewal, termination, abrogation, disposal of joint or common property, if any, and all other matters which may be appropriate to the proper effectuation and performance of the agreement.

(2) No public or private library agency shall undertake to exercise, itself or jointly with any other library agency, by means of a library agreement, any power prohibited to such agency by the constitution or statutes of its state.

(3) No library agreement shall become effective until filed with the compact administrator of each state involved and approved in accordance with Article VII of this compact.

Article VII. Approval of Library Agreements

(1) Every library agreement made pursuant to this compact shall, prior to and as a condition precedent to its entry into force, be submitted to the attorney general of each state in which a public library agency party thereto is situated, who shall determine whether the agreement is in proper form and compatible with the laws of his state. The attorneys general shall approve any agreement submitted to them unless they shall find that it does not meet the conditions set forth herein and shall detail in writing addressed to the governing bodies of the public library agencies concerned the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within 90 days of its submission shall constitute approval thereof.

(2) In the event that a library agreement made pursuant to this compact shall deal in whole or in part with the provision of services or facilities with regard to which an officer or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its entry into force, be submitted to the state officer or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing the action of the attorneys general pursuant to paragraph (1) of this article. This requirement of submission and approval shall be in addition to and not in substitution for the requirement of submission to and approval by the attorneys general.

Article VIII. Other Laws Applicable

Nothing in this compact or in any library agreement shall be construed to supersede, alter, or otherwise impair any obligation imposed on any library by otherwise applicable law nor to authorize the transfer or disposition of any property held in trust by a library agency in a manner contrary to the terms of such trust.

Article IX. Appropriations and Aid

(1) Any public library agency party to a library agreement may appropriate funds to the interstate library district established thereby in the same manner and to the same extent as to a library wholly maintained by it and, subject to the laws of the state in which such public library agency is situated, may pledge its credit in support of an interstate library district established by the agreement.

(2) Subject to the provisions of the library agreement pursuant to which it functions and the laws of the states in which such district is situated, an interstate library district may claim and receive any state and federal aid which may be available to library agencies.

Article X. Compact Administrator

Each state shall designate a compact administrator with whom copies of all library agreements to which his state or any public library agency thereof is party shall be filed. The administrator shall have such other powers as may be conferred upon him by the laws of his state and may consult and cooperate with the compact administrators of other party states and take such steps as may effectuate the purposes of this compact. If the laws of a party state so provide, such state may designate one or more deputy compact administrators in addition to its compact administrator.

Article XI. Entry into Force and Withdrawal

(1) This compact shall enter into force and effect immediately upon its enactment into law by any two states. Thereafter, it shall enter into force and effect as to any other state upon the enactment thereof by such state.

(2) This compact shall continue in force with respect to a party state and remain binding upon such state until 6 months after such state has given notice to each other

party state of the repeal thereof. Such withdrawal shall not be construed to relieve any party to a library agreement entered into pursuant to this compact from any obligation of that agreement prior to the end of its duration as provided therein.

Article XII. Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

22-1-602. Executive officer of state library commission as administrator.

The executive officer of the state library commission shall be the compact administrator of the Interstate Library Compact.

LIBRARY RECORDS CONFIDENTIALITY ACT

22-1-1101. Short title.

This part may be cited as the "Montana Library Records Confidentiality Act."

22-1-1102. Definitions.

As used in 22-1-1103, the following definitions apply:

(1) "Library" means a library that is established by the state, a county, city, town, school district, or a combination of those units of government, a college or university, or any private library open to the public.

(2) "Library records" means any document, record, or any other method of storing information retained, received, or generated by a library that identifies a person as having requested, used, or borrowed library material or other records identifying the names or other personal identifiers of library users. Library records does not include nonidentifying material that may be retained for the purpose of studying or evaluating the circulation of library materials in general or records that are not retained or retrieved by personal identifier.

22-1-1103. Nondisclosure of library records.

(1) No person may release or disclose a library record or portion of a library record to any person except in response to:

(a) a written request of the person identified in that record, according to procedures and forms giving written consent as determined by the library; or

(b) an order issued by a court of competent jurisdiction, upon a finding that the disclosure of such record is necessary because the merits of public disclosure clearly exceed the demand for individual privacy.

(2) A library is not prevented from publishing or making available to the public reasonable statistical reports regarding library registration and book circulation if those reports are presented so that no individual is identified therein.

(3) Library records may be disclosed to the extent necessary to return overdue or stolen materials or collect fines.

22-1-1111. Penalty.

Any person who violates 22-1-1103 is guilty of a misdemeanor and is liable to the person identified in a record that is improperly released or disclosed. The person identified may bring a civil action for actual damages or $100, whichever is greater. Reasonable attorney fees and the costs of bringing the action may be awarded to the prevailing party.

CULTURAL AND AESTHETIC PROJECTS

22-2-301. Cultural and aesthetic projects grants.

(1) Any person, association, or representative of a governing unit seeking a grant for a cultural or aesthetic project from the income of the trust fund created in 15-35-108 must submit a grant proposal to the cultural and aesthetic projects advisory committee, in care of the Montana arts council, by August 1 of the year preceding the convening of a regular legislative session.

(2) Grant proposals must be for the purpose of protecting works of art in the state capitol or other cultural and aesthetic projects.

22-2-302. Advisory committee — powers and duties.

(1) The cultural and aesthetic projects advisory committee provided for in 2-15-1521 shall review all proposals for cultural and aesthetic project grants before they are submitted to the legislature.

(2) Consistent with the rules adopted in accordance with 22-2-303, the committee shall make recommendations to the legislature on each proposal submitted to the committee.

(3) The committee's recommendations to the legislature are advisory only.

(4) The committee shall present its recommendations to the appropriations committee of the legislature by the 15th day of any regular legislative session.

22-2-303. Rulemaking authority.

(1) The Montana historical society and the Montana arts council shall adopt rules that specify the criteria the advisory committee shall use when evaluating and making recommendations on cultural and aesthetic grant proposals submitted to the legislature.

(2) The Montana arts council shall adopt rules that implement the provisions of 22-2-306, 22-2-308, and 22-2-309 , relating to local support, matching requirements, application procedures, and disbursements of grants.

22-2-304. Cultural and aesthetic project appropriations — administration.

(1) The legislature must appropriate funds from the income of the trust fund created in 15-35-108 for cultural and aesthetic projects before any grant for a cultural or aesthetic project is awarded.

(2) Costs incurred by the Montana arts council for accounting, correspondence, project visits, and solicitation of proposals related to cultural and aesthetic project grants and the costs of the advisory committee established in 2-15-1521 shall be paid from appropriations from the income of the trust fund.

(3) Grant proposals are heard by a legislative appropriations subcommittee.

(4) Grant proposals approved by the legislature are administered by the Montana arts council.

22-2-305. Allocation and disbursement of funds.

(1) The Montana arts council shall allocate and disburse cultural and aesthetic project account funds as appropriated by the legislature.

(2) If the funds in the cultural and aesthetic projects account are insufficient to fund projects in the amount of the legislative appropriation for the projects, the council shall allocate and disburse the account's funds in accordance with the provisions of the appropriation act.

22-2-306. Grant conditions — additional funds — accounts and reports.

(1) A grant may not be awarded unless the grantee accepts the Montana arts council's conditions of the grant and signs a contract stipulating those conditions.

(2) A grantee must agree in writing that:

(a) the grantee is the official and sole agency for the administration of the project described in the grant agreement; and

(b) no person will, on the grounds of race, color, national origin, sex, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity that results from the expenditure of grant funds.

(3) The grantee must agree that the funds granted will be expended solely for the purpose and activities described in the approved proposal. All funds granted to the grantee must be spent or encumbered during the grant period.

(4) Disbursements to grantees must be as follows, based upon the cash flow needs of the projects and the revenues available:

(a) Projects that are to receive more than $10,000 may receive an amount not exceeding 25% of the grant award in the first 6 months of the biennium, 50% in the first year of the biennium, 75% in the first 18 months of the biennium, and the balance in the remainder of the biennium. Within the limitations contained in this subsection, the amount of each payment must be determined by the Montana arts council in its discretion. Each payment may be made only after an examination of the costs incurred in the project and the amount, if any, of the unencumbered or unexpended balance of prior grant payments for the project.

(b) Projects that are to receive $10,000 or less may receive the total grant in any fiscal quarter if the Montana arts council determines that the cultural and aesthetic project account has funds available and that, after an examination of the costs incurred by the project, total payment is appropriate.

(c) A grant award budget may be modified in accordance with this subsection. A grantee may modify line items in an approved budget in an amount not to exceed 10% of the total grant award. A grantee may, with permission of the Montana arts council, modify line items in an approved budget in an amount not to exceed 20% of the total grant award. A modification may not increase the grant award or change the scope or purpose of the award.

(5) The grantee must maintain accounts, records, and other pertinent material pertaining to the costs incurred and expenditures made under the grant. The system of accounting employed by the grantee must be in accordance with generally accepted accounting principles and be applied in a consistent manner so that project costs and expenditures can be clearly identified. Accounts, records, and other pertinent material must be maintained for 3 years from the official termination date of the grant period or until an audit, approved by the council, has been completed and any questions arising from the audit have been resolved to the satisfaction of the council.

(6) Grantees must submit to the council semiannual reports of expenditures during the course of the project and other financial and descriptive reports that the council may require. The grantee must submit, within 30 days after completion of the project, a final financial report and a narrative report stating what was accomplished with the grant. Five percent of the total grant award must be held pending receipt of final reports by the council. With regard to grantees who in the past have submitted late reports, 30% of the grant award may be held pending receipt of final reports by the council.

(7) The council may, at the principal place of business of the grantee and during regular business hours, examine any directly pertinent records, accounts, and documents of the grantee involving transactions related to the grant.

22-2-308. Application procedure — grant criteria.

(1) A grant for a facility owned and operated by a county or municipality must require financial support for the facility from the county or municipality. A grant for a facility owned by a county or municipality but operated by a nonprofit organization is expected to have financial support from the county or municipality, but must have, at a minimum, in-kind support for the facility from the county or municipality. The grant application form, which must be prescribed by the Montana arts council, must request specific information about the level of local support for the project and the facility.

(2) An applicant for a historic preservation project shall cooperate with the state historic preservation office. A letter from the state historic preservation office, stating any agreements reached with the applicant, must be received by the Montana arts council before the grant funds may be released.

22-2-309. Grant categories.

(1) The following categories are established for grant funds:

(a) special projects which are specific cultural and aesthetic activities, services, or events of limited duration;

(b) operational support for cultural institutions that have been in existence for at least 2 years and whose budgets reflect only the cost of continuing their current program;

(c) capital expenditures for acquisition, construction, or renovation of facilities; and

(d) challenge grants for permanent endowments to benefit cultural nonprofit grant recipients.

(2) The Montana arts council may require a match in cash or donated services for special project and operational support grants. There is a presumption that the match must represent $1 in value for each dollar of the grant. The Montana arts council may accept matches in excess of the presumed value or may in its discretion require a lesser amount.

(3) Capital expenditures may not exceed 25% of the total grant funds appropriated. Capital expenditure grants require a match of at least $3 in cash or donated goods and services, which goods and services must be donated specifically for the capital expenditure project, to receive each dollar of grant funds.

(4) Challenge grants require a match of at least $3 in cash or irrevocable planned or deferred gifts to receive each dollar of grant funds. Challenge grants are available upon meeting the specified match. Not less than one-third of the specified match must be in cash. Not more than one-third of the match may be in wills, devises, bequests, and paid-up life insurance policies. A devise may include retention of an irrevocable life estate by the donor.

22-2-321. Reversion of granted funds.

At the end of a grant period, any unexpended balance of the grant shall revert to the cultural and aesthetic projects account provided for in 15-35-108.

HISTORICAL SOCIETY

22-3-103. Historical library — independence from other libraries, museums, or galleries.

(1) There is a historical library, to be maintained and operated by the Montana historical society.

(2) The historical library and any historical museum administered by the society in accordance with the provisions of this part shall be independent of any other library, museum, or gallery owned, maintained, or operated by the state of Montana.

PRICE DISCRIMINATION

30-14-901. Discrimination in price.

(1) It is unlawful for a business to discriminate, directly or indirectly, in the price charged to different purchasers of commodities of like grade and quality if the effect of the discrimination upon other businesses or customers is to substantially lessen competition, to create a monopoly in any line of commerce, or to injure, destroy, or prevent competition with any business that grants or knowingly receives the benefit of the discrimination.

(2) This section does not prohibit:

(a) price differentials that make due allowance for the costs of manufacture, sale, or delivery resulting from the differing methods or quantities in which the commodities are sold or delivered to the purchasers;

(b) businesses engaged in selling commodities from selecting their own customers in bona fide transactions and not in restraint of trade; or

(c) price changes from time to time made in response to changing conditions affecting the market for, or the marketability of, the commodities, including but not limited to actual or imminent deterioration of perishable goods, obsolescence of seasoned goods, distress sales under court process, or sales in good faith in discontinuance of business in the goods concerned.

(3) It is unlawful for a business to discriminate in favor of one purchaser against another purchaser of a processed or unprocessed commodity bought for resale by contracting to furnish, by furnishing, or by contributing to the furnishing of any service or facility connected with the processing, handling, sale, or offering for sale of the commodity purchased upon terms not accorded to all purchasers on proportionally equal terms.

(4) It is unlawful for a business to knowingly induce or receive a discrimination in price that is prohibited by this section.

(5) This section does not apply to industry members regulated by Title 16, chapters 1 through 6.

30-14-902. Return of net earnings or surplus of cooperative association — exemption of nonprofit institution from price discrimination provision.

(1) Section 30-14-901 may not be construed to prevent a cooperative association from returning to its members, producers, or consumers, in proportion to their purchases or sales from, to, or through the association, all or any part of the net earnings or surplus resulting from its trading operations.

(2) Section 30-14-901 does not apply to the purchase of supplies for its own use by a school, college, university, public library, church, hospital, or charitable institution not operated for profit.

OFFENSIVE, INDECENT, AND INHUMANE CONDUCT

45-8-201. Obscenity

(1) A person commits the offense of obscenity when, with knowledge of the obscene nature thereof, he purposely or knowingly:

(a) sells, delivers, or provides or offers or agrees to sell, deliver, or provide any obscene writing, picture, record, or other representation or embodiment of the obscene to anyone under the age of 18;

(b) presents or directs an obscene play, dance, or other performance, or participates in that portion thereof which makes it obscene, to anyone under the age of 18;

(c) publishes, exhibits, or otherwise makes available anything obscene to anyone under the age of 18;

(d) performs an obscene act or otherwise presents an obscene exhibition of his body to anyone under the age of 18;

(e) creates, buys, procures, or possesses obscene matter or material with the purpose to disseminate it to anyone under the age of 18; or

(f) advertises or otherwise promotes the sale of obscene material or materials represented or held out by him to be obscene.

(2) A thing is obscene if:

(a) (i) it is a representation or description of perverted ultimate sexual acts, actual or simulated;

(ii) it is a patently offensive representation or description of normal ultimate sexual acts, actual or simulated; or

(iii) it is a patently offensive representation or description of masturbation, excretory functions, or lewd exhibition of the genitals; and

(b) taken as a whole the material:

(i) applying contemporary community standards, appeals to the prurient interest in sex;

(ii) portrays conduct described in subsection (2)(a)(i), (ii), or (iii) in a patently offensive way; and

(iii) lacks serious literary, artistic, political, or scientific value.

(3) In any prosecution for an offense under this section, evidence shall be admissible to show:

(a) the predominant appeal of the material and what effect, if any, it would probably have on the behavior of people;

(b) the artistic, literary, scientific, educational, or other merits of the material;

(c) the degree of public acceptance of the material in the community;

(d) appeal to prurient interest or absence thereof in advertising or other promotion of the material; or

(e) purpose of the author, creator, publisher, or disseminator.

(4) A person convicted of obscenity shall be fined at least $500 but not more than $1,000 or imprisoned in the county jail for a term not to exceed 6 months, or both.

(5) Cities, towns, or counties may adopt ordinances or resolutions which are more restrictive as to obscenity than the provisions of 45-8-206 and this section.

45-8-203. Certain motion picture theater employees not liable for prosecution.

(1) As used in this section, "employee" means any person regularly employed by the owner or operator of a motion picture theater if he has no financial interest other than salary or wages in the ownership or operation of the motion picture theater, has no financial interest in or control over the selection of the motion pictures shown in the theater, and is working within the motion picture theater where he is regularly employed. "Employee" does not include a manager of the motion picture theater.

(2) No employee is liable to prosecution under 45-8-201 and 45-8-206 or under any city or county ordinance for exhibiting or possessing with intent to exhibit any obscene motion picture provided the employee is acting within the scope of his regular employment at a showing open to the public.

45-8-205. Definitions.

As used in 45-8-205 through 45-8-208, the following definitions apply: (1) "Display or dissemination of obscene material to minors" means that quality of a description, exhibition, presentation, or representation, in whatever form, of sexual conduct or sadomasochistic abuse when the material or performance, taken as a whole, has the following characteristics:

(a) its dominant theme appeals to a minor's prurient interest in sex;

(b) it depicts or describes sexual conduct or sadomasochistic abuse in a manner that is patently offensive to contemporary standards in the adult community with respect to what is suitable for minors; and

(c) it lacks serious literary, scientific, artistic, or political value for minors. If the court finds that the material or performance has serious literary, scientific, artistic, or political value for a significant percentage of normal older minors, the material or performance may not be found to lack such value for the entire class of minors.

(2) "Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America).

(3) "Minor" means a person under 18 years of age.

(4) "Newsstand" means a stand that distributes or sells newspapers or magazines.

(5) "Performance" means any motion picture, film, or videotape (except a motion picture or videotape rated G, PG, PG-13, or R by the motion picture association of America); phonograph record; compact disk; tape recording; preview; trailer; play; show; skit; dance; or other exhibition played or performed before an audience of one or more, with or without consideration.

(6) "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.

(7) "Prurient interest in sex" means a shameful or morbid interest in sex or excretion.

(8) "Sexual conduct" includes:

(a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted. A sexual act is simulated when it gives the appearance of depicting actual sexual activity or the consummation of an ultimate sexual act.

(b) masturbation, excretory functions, or lewd exhibition of uncovered genitals or female breasts;

(c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume.

(9) "Ultimate sexual act" means vaginal or anal sexual intercourse, fellatio, cunnilingus, or bestiality.

45-8-206. Public display or dissemination of obscene material to minors.

(1) A person having custody, control, or supervision of any commercial establishment or newsstand may not knowingly or purposely:

(a) display obscene material to minors in such a way that minors, as a part of the invited public, will be able to view the material; provided, however, that a person is considered not to have displayed obscene material to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view or other reasonable efforts were made to prevent view of the material by a minor;

(b) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view, with or without consideration, any obscene material; or

(c) present to a minor or participate in presenting to a minor, with or without consideration, any performance that is obscene to minors.

(2) A person does not violate this section if:

(a) he had reasonable cause to believe the minor was 18 years of age. "Reasonable cause" includes but is not limited to being shown a draft card, driver's license, marriage license, birth certificate, educational identification card, governmental identification card, or other official or apparently official card or document purporting to establish that the person is 18 years of age;

(b) the person is, or is acting as, an employee of a bona fide public school, college, or university or a retail outlet affiliated with and serving the educational purposes of a school, college, or university and the material or performance was disseminated in accordance with policies approved by the governing body of the institution;

(c) the person is an officer, director, trustee, or employee of a public library or museum and the material or performance was acquired by the library or museum and disseminated in accordance with policies approved by the governing body of the library or museum;

(d) an exhibition in a state of nudity is for a bona fide scientific or medical purpose for a bona fide school, library, or museum; or

(e) the person is a retail sales clerk with no financial interest in the material or performance or in the establishment displaying or selling the material or performance.

45-8-207. Notice of violation.

Before a county attorney may prosecute a person for a continuing violation of 45-8-206, he shall determine that the material or performance is obscene to minors, give the alleged violator actual notice of the determination and notice that he will be prosecuted if he does not desist, and determine that the violation continued for at least 3 days after notice was received. The person may seek a declaratory judgment on the question whether the material or performance is obscene to minors. The statute of limitations for the offense is tolled while the declaratory judgment or an appeal from it is pending.

45-8-208. Penalties.

(1) A person who is convicted of violating 45-8-206 is guilty of a misdemeanor and may be fined an amount not to exceed $500 or be imprisoned for a term not to exceed 6 months, or both.

(2) For purposes of 45-8-206, multiple copies of the same title, monthly issue, volume and number issue, or other identical material constitutes a single offense.

MONTANA CLEAN INDOOR AIR ACT

50-40-105. No smoking signs in certain places.

No smoking signs must be conspicuously posted in intrastate buses that are not chartered, elevators, museums, galleries, kitchens, and libraries of any establishment doing business with the general public.

[SMOKING IN PUBLIC PLACES] GOVERNMENT OFFICES AND WORK AREAS

50-40-201. Reservation of smoking and nonsmoking areas in work areas in local government buildings.

In offices and work areas in buildings maintained by a political subdivision, except a school or community college facility designated as tobacco-free by the board of trustees of the school district or community college district, in which seven or more employees of the political subdivision are employed, the governing body of the political subdivision shall, except as provided in subsection (2), arrange nonsmoking and smoking areas in a convenient area.

50-40-202. Public policy.

In recognition of the increased health hazards of passive smoke on the nonsmoker, it is the declared public policy of the state of Montana that certain buildings both owned and occupied by the state may be smoke-free. It is further the policy of the state that designated smoking areas be established in certain other state buildings pursuant to 50-40-204.

50-40-203. Definitions.

As used in 50-40-202 through 50-40-205, the following definitions apply: (1) "Agency head" means a director, commissioner, or constitutional officer in charge of an executive, legislative, or judicial branch agency or of an agency of the Montana university system.

(2) "Designated smoking area" means an enclosed, comfortable area that maintains adequate ventilation to minimize the circulation of smoke to surrounding areas and that has been designated as a smoking area under 50-40-204.

(3) "Smoking" means any lighted cigar, cigarette, or pipe or any other lighted tobacco product.

50-40-204. Smoke-free buildings — designated smoking areas.

(1) In buildings both owned and occupied by the state, smoking is prohibited in the following areas:

(a) general office space;
(b) auditoriums, classrooms, and conference rooms;
(c) elevators;
(d) corridors, lobbies, restrooms, and stairways;
(e) medical care facilities;
(f) libraries; and
(g) hazardous areas.

(2) (a) Subject to subsection (1), in state-owned buildings, an agency head shall establish at least one designated smoking area in the building occupied by the agency, provided that the building is suited by architectural design and functional purpose to have a designated smoking area as defined in 50-40-203 .

(b) Buildings in the Montana university system and buildings housing items of artistic or historic value that may be damaged by smoke are exempt from the provisions of subsection (2)(a).

(3) In establishing designated smoking areas, as provided in subsection (2), an agency head shall consider:

(a) the number of smokers and nonsmokers in the agency;

(b) the building ventilation system;

(c) the availability of space;

(d) the protection of nonsmokers from involuntary exposure to smoke; and

(e) available resources.

(4) (a) Agencies in multitenant buildings are encouraged to work together to identify designated smoking areas.

(b) The legislature shall establish designated smoking areas in the capitol in areas used by the legislature.

50-40-205. Signing — smoking receptacles.

(1) An agency head shall place signs stating where the designated smoking areas are located.

(2) An agency head is responsible for providing adequate ash trays or receptacles in the designated smoking areas.

(3) In buildings of historical significance, agency signs must be aesthetically pleasing and must fit the architectural style of the building.

[FIRE SAFETY IN PUBLIC BUILDINGS] GENERAL PROVISIONS50-61-101. PURPOSE OF CHAPTER.

The purpose and intent of this chapter are to provide for the public safety in case of fire in those occupancies specified in 50-61-103 and to provide for inspection of the buildings and premises by specified officers.

50-61-102. Department of justice to administer chapter.

(1) The department of justice has general charge and supervision of the enforcement of this chapter, and the officers enumerated in 50-61-114 shall act under its general charge and supervision, shall assist the department in giving effect to this chapter, and are subject to its direction and the rules adopted under 50-3-102 and 50-3-103 for the enforcement of 50-61-120 and 50-61-121 and this chapter.

(2) Upon its approval of a fire code and a plan for enforcement of the code filed by a municipality, district, or fire service area, the department may certify a municipal, district, or fire service area fire inspection program for local enforcement.

50-61-103. Application of chapter — definitions.

This chapter applies to the occupancies defined below:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social, or recreational purposes, including among others:

(a) armories;

(b) assembly halls;

(c) auditoriums;
(d) bowling alleys;
(e) broadcasting studios;
(f) chapels;
(g) churches;
(h) club rooms;
(i) dance halls;
(j) exhibition rooms;
(k) gymnasiums;
(l) lecture halls;
(m) lodge rooms;
(n) motion picture theaters;
(o) museums;
(p) night clubs;
(q) opera houses;
(r) passenger stations;
(s) pool rooms;
(t) recreation areas;
(u) restaurants;
(v) skating rinks;
(w) television studios;
(x) theaters; and
(y) taverns.

(2) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business or the rendering or receiving of professional services, including among others:

(a) banks;
(b) barbershops;
(c) beauty parlors;
(d) office buildings;
(e) radio stations;
(f) telephone exchanges; and
(g) television stations.

(3) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or receiving educational instruction, including among others:

(a) academies;
(b) colleges;
(c) libraries;
(d) schools; and
(e) universities.

(4) "Industrial occupancy" means the occupancy or use of a building or structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, including among others:

(a) assembly plants;
(b) creameries;
(c) electric substations;

(d) factories;
(e) ice plants;
(f) laboratories;
(g) laundries;
(h) manufacturing plants;
(i) mills;
(j) power plants;
(k) processing plants;
(l) pumping stations;
(m) repair garages;
(n) smokehouses; and
(o) workshops.

(5) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment or by persons involuntarily detained, including among others:

(a) asylums;
(b) homes for the aged;
(c) hospitals;
(d) houses of correction;
(e) day-care facilities;
(f) infirmaries;
(g) jails;
(h) nurseries;
(i) orphanages;
(j) nursing homes;
(k) penal institutions;
(l) reformatories;
(m) sanitariums;
(n) long-term care facilities; and
(o) boarding homes.

(6) "Residential occupancy" means the occupancy or use of a building or structure or any portion thereof by persons for whom sleeping accommodations are provided and who are not harbored or detained to receive medical, charitable, or other care or treatment or are not involuntarily detained, including among others (but not including single-family private houses):

(a) apartments;
(b) clubhouses;
(c) convents;
(d) dormitories;
(e) dwellings;
(f) hotels;
(g) motels;
(h) multifamily houses; and
(i) lodging houses.

50-61-106. Unlawful to obstruct fire exit.

It is unlawful to obstruct in any manner any fire exit, or any hallway, corridor, or entranceway leading to a fire exit, required by rules adopted by the department of justice. (1) Within an incorporated municipality, an educational or institutional occupancy, whether public or private, may not be constructed or have alterations made costing $1,500 or more until sketches or architectural plans for the construction or alteration, whichever are available, are submitted to and approved by the state fire prevention and investigation program of the department of justice.

(2) Outside an incorporated municipality, an assembly, educational, or institutional occupancy may not be constructed or have alterations made costing $1,500 or more until a permit has been issued for the construction or alteration by the county commissioners. A fee of $10 must be paid to the county treasurer for each permit. A copy of the permit must be furnished to the department of revenue. A permit may not be issued until sketches or architectural plans for the construction or alteration, whichever are available, are submitted to and approved by the state fire prevention and investigation program of the department of justice. The state fire prevention and investigation program of the department of justice and county sheriffs are responsible for enforcing the provisions of this subsection.

50-61-112. Prior approval required for construction or alteration of educational and institutional occupancies.

(1) Within an incorporated municipality, an educational or institutional occupancy, whether public or private, may not be constructed or have alterations made costing $1,500 or more until sketches or architectural plans for the construction or alteration, whichever are available, are submitted to and approved by the state fire prevention and investigation program of the department of justice.

(2) Outside an incorporated municipality, an assembly, educational, or institutional occupancy may not be constructed or have alterations made costing $1,500 or more until a permit has been issued for the construction or alteration by the county commissioners. A fee of $10 must be paid to the county treasurer for each permit. A copy of the permit must be furnished to the department of revenue. A permit may not be issued until sketches or architectural plans for the construction or alteration, whichever are available, are submitted to and approved by the state fire prevention and investigation program of the department of justice. The state fire prevention and investigation program of the department of justice and county sheriffs are responsible for enforcing the provisions of this subsection.

50-61-114. Fire chief and fire inspector to make inspections.

The chief of the fire department of each municipality, district, or fire service area, when a fire inspection program is established, or a fire inspector of the department of justice, when a fire inspection program does not exist, for the purpose of examining the premises for violations of this chapter and rules adopted under 50-3-103 for the enforcement of this chapter: (1) shall enter into school buildings at least once each 12 months; and

(2) may enter into all other buildings and upon all other premises within the jurisdiction, according to priority schedules established by the department for conducting inspections of buildings and premises.

50-61-115. Notice of violations.

(1) When a building is found that is not in compliance with fire safety rules promulgated by the department of justice, the person making the inspection or the department shall serve a written notice upon the party whose duty it is to maintain the safety of the building.

(2) The notice must specify the time within which the defective conditions must be remedied, which may not be more than 90 days.

(3) The notice is served if delivered to the person to be notified, if left with any adult person at the usual residence or place of business of the person to be notified, or if deposited in the post office directed to the last-known address of the person to be notified. Whenever buildings are managed and controlled by a board of trustees, board of commissioners, or other governing body, the notice is served if delivered to the president, secretary, or treasurer of the board of trustees, board of commissioners, or other governing body.

50-61-116. Lessee who corrects violations entitled to reimbursement.

The occupant or lessee of any building who is required to erect fire escapes under the provisions of this chapter is entitled to reimburse himself for the cost and expense of erecting the fire escapes out of the rent or lease money of the premises, and the reimbursement is not a breach of any existing lease, contract, or covenant thereof or grounds for any action or damage ouster.

50-61-117. Prosecution of violations.

It is the duty of the department of justice or other authorized officer to furnish the county attorney with all evidence of violations of rules adopted by the department within the county where said violations occur, and, if the evidence discloses the fact that a violation has occurred, it is the duty of the county attorney of the county to prosecute the person committing the violation in the same manner as in other cases.

50-61-118. Injunction authorized.

In addition to the other remedies and penalties provided in this chapter, upon the failure of any of the parties charged with the duty to maintain the safety of the building premises in accordance with rules adopted by the department of justice, the attorney general of the state or the county attorney of the county where the building is located shall bring an action against the owner, lessee, and occupants of the building for an injunction enjoining the further occupancy of it until it is in compliance with this chapter. The action may be brought in the county where the building is located.

50-61-119. Violation of chapter a misdemeanor.

(1) Any person failing, neglecting, or refusing to comply with any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished by a fine of not less than $50.

(2) Each day's failure to comply with any of the provisions of this chapter, after the expiration of the time stipulated in the written notice provided for herein, shall constitute a separate offense.

UNIVERSAL ACCESS AND SERVICE

69-3-841. *(Temporary)* Universal service policies.

The legislature finds that universally available telecommunications services are essential to the health, welfare, and economic well-being of the citizens of Montana. The federal Telecommunications Act of 1996, Public Law 104-104, requires a transition to local competition. Implicit subsidies have historically been used to further the public policy of keeping local rates to customers in high-cost areas at affordable levels. The federal act and the transition to competition require that all subsidies used to keep local rates at affordable levels be explicit. Additionally, the federal act's universal service provisions establish a system of discounts for schools, libraries, and health care providers. Securing these discounts can be dependent on state actions. In order to preserve and advance the goal of universal service in the new competitive environment established by the federal act, the legislature finds that a new Montana universal service fund, supported by contributions from the telecommunications carriers operating in Montana, should be created that will:

(1) not duplicate the federal universal service fund mandated by the Telecommunications Act of 1996 but that will complement the federal fund by providing additional funding as necessary to ensure universal service in the state of Montana;

(2) be competitively and technologically neutral in both funding and distribution;

(3) provide a specific, predictable, and sufficient mechanism of support for high-cost areas; and

(4) allow for implementation of the federal support system for telecommunications services provided to schools, libraries, and health care providers.

69-3-846. Discounts for schools, libraries, and health care providers.

The commission is authorized to establish intrastate discounts to schools, libraries, and health care providers and to perform administrative functions necessary as a condition of federal universal service support if the discounts are recovered through the federal universal service fund.

69-3-356. Interim universal access program — definitions.

As used in 69-3-857 through 69-3-862 and this section, the following definitions apply: (1) "Administrator" means the public service commission.

(2) "Advanced services" means high-speed (56 kbps and above), dedicated or switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications using any technology.

(3) "Health care provider" means any one of, or a consortium of, the following institutions located in Montana:

(a) postsecondary educational institutions offering health care instruction;

(b) community health care centers or health centers providing health care to migrants;

(c) local health departments or agencies;

(d) community mental health centers;

(e) not-for-profit hospitals; and

(f) rural health clinics.

(4) "Library" means a library located in Montana that is eligible for participation in state-based plans for funds under Title III of the Library Services and Construction Act (20 U.S.C. 335c, et seq.).

(5) "School" means:

(a) an elementary school or secondary school that meets the definition set forth in subsections (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801) and that does not have an endowment of more than $50 million; or

(b) a bureau of Indian affairs elementary and secondary school.

(6) "Tribal college" means a college recognized by the United States government as a tribal college.

69-3-857. Interim universal access program — public access points.

At a minimum, all public access points must provide the general public access to advanced telecommunications services that are not subscription-based. The access must be provided free of charge and at convenient hours on a walk-in basis. Public access points may offer subscription-based services, such as electronic mail, but are not required to administer these types of services.

69-3-858. Interim universal access program — funded services — application for services.

(1) The universal access program provides funding through discounts only for advanced services for use by public access points, schools, tribal colleges, libraries, and health care providers approved by the administrator.

(2) The first priority of the program is to provide funding for at least one public access point in each Montana community. Subject to available funding, the program shall also provide funding for advanced services to schools, tribal colleges, libraries, and health care providers.

(3) The administrator shall establish discount levels for services in each of the following categories:

(a) public access points;

(b) education services to schools and tribal colleges for distance learning, electronic access to educational resources, and electronic delivery or reception of educational programming;

(c) library services for libraries not serving as public access points for electronic access to information and library services; and

(d) rural health services to rural health care providers for access to similar services as urban health care providers and to ensure electronic access to health care services.

(4) To receive discounted services under the interim universal access program, public access providers, schools, tribal colleges, libraries, and health care providers shall apply for the discounts. The application must be accompanied by a resolution of support from the governing body of the appropriate city, county, or tribal government in which the applicant is located.

[NATURAL RESOURCE INFORMATION SYSTEM] GENERAL

90-15-101. Purpose.

It is the purpose of this chapter to establish a planning framework for the development of a natural resource information system, to implement the system, and to establish an ongoing Montana natural heritage program.

90-15-102. Definitions.

As used in this chapter, the following definitions apply:

(1) "Committee" means the natural resource data system advisory committee created by 2-15-1514.

(2) "Library" means the state library provided for in 22-1-201.

(3) "Natural heritage program" means a program of information acquisition, storage, and retrieval for data relating to the flora, fauna, and biological community types of Montana.

(4) "Principal data source agencies" means any of the following state agencies: the department of natural resources and conservation; the department of fish, wildlife, and parks; the department of environmental quality; the department of agriculture; the department of transportation; the state historical society; and the Montana university system.

90-15-103. Funding.

The library and each principal data source agency may apply for and may receive funding from private and public sources for the purposes of this chapter.

ADVISORY COMMITTEE

90-15-201. Duties of committee.

The committee shall examine the following matters and make recommendations to the library concerning: (1) criteria for the categories and types of data to be collected for a natural resource information system;

(2) criteria for the format of data collection;

(3) identification of existing sources of relevant data in the public sector;

(4) identification of data acquisition, storage, and retrieval methodologies that are economical and efficient, that minimize or eliminate the duplication of data bases, and that utilize computer networking;

(5) probable costs to agencies furnishing required data and probable costs of managing the data;

(6) probable benefits to be realized by the establishment of a natural resource information system;

(7) operation of the Montana natural heritage program; and

(8) other items the committee considers of importance to the establishment of a natural resource information system.

90-15-202. Committee staff.

The library shall provide staff support to the committee, within the limits of the library's available resources.

90-15-203. Expenses of committee members — meetings.

(1) Committee members, while engaged in committee business, are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503 . These expenses shall be borne by the agency employing the member. Each member serves at the pleasure of the respective appointing authority.

(2) The committee shall establish its own format for the conduct of meetings.

INFORMATION SYSTEM

90-15-301. Establishment of information system.

(1) The library, in consultation with the committee, shall establish a planning framework for the implementation of a natural resource information system and shall begin implementation of the plan. This system is to be a comprehensive program for the acquisition, storage, and retrieval of existing data relating to the natural resources of Montana.

(2) The library shall give attention to the factors listed in 90-15-201 and shall prepare any legislation necessary to implement the system.

(3) It is not intended that the system shall require fieldwork to produce data. The system is intended to facilitate the management of data collected by state agencies in the normal course of their operations.

90-15-302. Natural heritage program.

(1) There is a Montana natural heritage program to be operated by the library. In order to establish the program, the library may contract with an independent contractor or may employ necessary staff. In order to minimize costs, the library or other state agencies may make available state resources and facilities to an independent contractor as part of a contract for services.

(2) The Montana natural heritage program shall be designed to be compatible with similar programs in other states. This program is to be an initial step in the formulation of the comprehensive natural resource information system referred to in 90-15-301 and is to be considered a part of the system.

90-15-303. Interagency cooperation.

(1) State agencies shall cooperate with the library and the committee in the planning of the natural resource information system.

(2) Within the limits of available resources, state agencies shall provide data requested by the library for purposes of the natural resource information system and the Montana natural heritage program. If an agency does not possess requested data or is unable to locate requested data, the agency shall inform the library. It is not necessary for an agency to conduct fieldwork or literature searches to obtain requested data.

90-15-304. Availability of information.

(1) Except as provided in subsection (3), the library shall make information from the natural resource information system available to local, state, and federal agencies and to the general public.

(2) The library may establish a fee system for information requests in order to cover the costs of providing requested information.

(3) If necessary, the library shall establish procedures to protect confidential information in the possession of state agencies.

90-15-305. Water information system.

(1) There is a Montana water information system, to be operated within the natural resource information system referred to in 90-15-301 and that is to be considered a part of the system.

(2) The Montana water information system shall make available and readily accessible, in a usable format, to state agencies and other interested persons, information on the state's water resources, out-of-state water resources that affect the state, existing and potential uses, and the existing and potential demand.

CHAPTER 3
ADMINISTRATIVE RULES FOR MONTANA STATE LIBRARY

SOME OF THE RULES CONTAINED WITHIN ARE OUTDATED AND THE COMMISSION WILL CONSIDER EITHER REPEALING OR UPDATING THESE RULES DURING 2000. THESE RULES MAY INCLUDE, BUT ARE NOT LIMITED TO THE FOLLOWING:

10.101.201
10.101.204
10.101.205
10.102.5201 THROUGH 10.102.5208
10.102.8001
10.102.8101
10.102.8102

IF THE COMMISSION DOES ENGAGE IN THE ADMINISTRATIVE RULE PROCEDURE, THE STATE LIBRARY WILL NOTIFY ALL INTERESTED PARTIES IN ACCORDANCE WITH STATE LAW.

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CHAPTER 3 ADMINISTRATIVE RULES OF MONTANA

ORGANIZATIONAL RULE

10.101.101 AGENCY ORGANIZATION

(1) The state library commission consists of five members appointed by the governor for three year terms and the state superintendent of public instruction or his designee and a librarian appointed by the commissioner of higher education from the Montana university system. The commission annually elects a chair from its membership. It employs as its executive officer a state librarian who is not a member of the commission, and who performs duties assigned by the commission.

(2) The state library provides library service at the state level, serving state government, local libraries, and federations; it promotes the development of adequate libraries throughout the state; it provides library service to persons with visual and physical disabilities and persons in state institutions; expends funds available from federal, state, and private sources for the purpose of fostering library development; and provides for a comprehensive program for the acquisition, storage, and retrieval of data related to the natural resources of Montana.

(3) The Montana library services advisory council is created by the governor in accordance with the provisions of 2-15-122, MCA. The commission shall submit names of recommended council members to the governor.

(a) The council shall advise and make recommendations to the commission on the development, evaluation and funding of the Library Services and Technology Act (LSTA) program and other pertinent issues that may relate to or influence LSTA.

(b) The composition of the council shall be no more than nine members. Eight shall serve for two years and may be reappointed for two additional terms and may represent: users of public library services in eastern, central, and western Montana; public libraries; school libraries; academic or special libraries; persons who cannot use traditional library services; and a member of the legislature. The president of the Montana library association or designee may serve a one-year term on the council during the presidency of the association.

(c) The council shall have the authority to establish bylaws for its internal operation. These bylaws may not conflict with 22-1-103, MCA, the Library Services and Technology Act, its rules and regulations, or with policies established by the commission.

(d) The number of yearly meetings shall be determined by the executive committee of the council. The number shall remain flexible to include no less than two and no more than four meetings.

(4) Inquiries regarding the functions of the state library should be addressed to the state librarian.

(5) Personnel Roster: Montana State Library, 1515 E. 6th Ave., Helena, Montana 59620; State Librarian, Statewide Library Resources Director, Regional Director of the Talking Book Library, and Director of the Natural Resource Information System.

Sub-Chapter 2

Procedural Rules

10.101.201 INCORPORATION OF MODEL RULES (1) The state library commission has adopted the attorney general's model rules of administrative procedure, as set forth in ARM, Title 1, chapter 3, with the proviso that a hearing on denial of an application for a grant of Library Services and Construction Act funds may be conducted under the commission's rule ARM 10.101.202, or in the alternative, under the model rules of contested case hearing. (History: Sec. 2-4-202, MCA; IMP, 2-4-202, MCA; NEW, Eff. 12/31/72; AMD, Eff. 1/1/78.)

10.101.202 HEARINGS ON GRANT APPLICATION DENIALS (IS HEREBY REPEALED) (History: Sec. 2-4-202, MCA; IMP, 2-4-201, MCA; NEW, Eff. 1/1/78; REP, 1987 MAR p. 1622, Eff. 9/25/87.)

10.101.203 GUIDELINES FOR PUBLIC PARTICIPATION (1) Except for financial exigencies, the commission shall meet six times during each calendar year, at approximately equal intervals, and at such other times as may be appropriate. Special meetings may be called by the chair or at the request of two members. An agenda for each regular meeting shall be prepared by the state librarian in consultation with the chair and will be distributed in advance, with supporting documents to the members.

(2) Agendas are available to the public from the office of the state librarian. Supporting documents may be requested from that office. Each commission agenda shall provide an open time for the public to address the commission. (History: Sec. 2-3-103, MCA; IMP, 2-3-103, MCA; NEW, Eff. 1/1/78; AMD, 1987 MAR p. 1624, Eff. 9/25/87; AMD, 1997 MAR p. 1991, Eff. 11/4/97.)

10.101.204 GRANTS TO LIBRARIES UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT (1) The Montana state library commission shall make available funds under the Library Service and Construction Act as appropriated by the Montana legislature. The Montana library services advisory council shall make recommendations to the commission in accord with the purposes of the individual titles of the Library Services and Construction Act. These are Title I, public library services - the extension of library services to citizens without services or inadequately served because of distances, physical handicaps or other disadvantages; Title II, public library construction - construction of new facilities and remodeling of facilities to improve energy conservation and meet standards, particularly access for the handicapped; Title III, interlibrary cooperation - the coordination of resources of school, public, academic and special libraries and the establishment and operation of local, regional and interstate cooperative networks.

(2) The council may recommend to the commission to make funds available through designated projects or through limited calls for proposals to accompany particular objectives or general improvement in library services for residents of Montana or through open competitions for which all libraries shall be eligible as defined in the request for proposals.

(3) In making recommendations to the commission, the Montana library services advisory council shall use the current long range planning document and shall recommend to the commission priorities based on the long range plan.

(4) The council shall recommend to the commission the available funds to be held, whether a specific project should be developed or an open or limited competition held, and a time frame for the project.

(5) The council shall encourage participation of libraries and all citizens of Montana on recommending uses for funds under the Library Services and Construction Act.

(6) Prior to the fall meeting of the council, the Montana state library shall announce to libraries the intent of the council to receive concepts for projects under the Library Services and Construction Act grant funds. The library shall encourage submission of ideas for consideration and shall summarize the ideas received for the fall council meeting. The council shall have preliminary discussion on the uses of the funds at its fall meeting and shall identify those in which there is significant interest for further development. Following the fall meeting, the Montana state library shall publicize these to the library community and citizens of the state and shall solicit specific proposals for the council's discussion at its winter meeting. The council shall make its decision on the recommendations for use of the funds and shall present this to the Montana state library commission at its meeting at the Montana library association conference. (History: Sec. 22-1-103, MCA; IMP, 22-1-103, MCA; NEW, 1987 MAR p. 1622, Eff. 9/25/87.)

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10.101.205 LIMITED AND OPEN COMPETITIONS FOR LIBRARY SERVICES AND CONSTRUCTION ACT GRANTS (1) Upon approval by the Montana state library commission, the state librarian shall submit the proposed project to the U.S. office of education. Upon its approval, the state librarian shall issue a limited or open call for proposals. This call shall include the goals and objectives to be accomplished, who is eligible to apply, the procedures for the project and the procedures by which applications may be made and the criteria by which competitive grants will be awarded. Libraries, or individuals, or agencies responding to the call shall include in the response the method of evaluation for the project.

(2) If instructed by the council, the state librarian and staff of the Montana state library shall conduct a preliminary screening of proposals dividing those into eligible and not eligible.

(3) The council may appoint a special committee or use a standing committee or may itself as a whole determine what they will recommend for funding based on the criteria used in the request for proposals.

(4) The council shall rank all proposals in priority for funding and rejection. This determination shall be based on the state criteria and a rationale for the determination shall be prepared.

(5) The council shall present its recommendation to the Montana state library commission.

(6) The dates, times and agenda of the council and commission shall be made known to all who submit grant applications. The recommendation being made shall be made known to those who submit grant applications. (History: Sec. 22-1-103, MCA; IMP, 22-1-103, MCA; NEW, 1987 MAR p. 1622, Eff. 9/25/87.)

10.101.206 APPEALS PROCESS FOR DENIAL OF A GRANT (1) Any person or group submitting a proposal for grant funds to the Montana state library commission shall have the right to appeal if the proposal is not funded. The request for the appeal shall be made to the Montana State Librarian at 1515 E. Sixth Ave., Helena, MT 59620 (444-3115) within 12 working days of receipt of the letter denying the grant.

(2) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall be composed as follows: a representative named by the appellant who is not from the appellant's library or governing authority; a representative chosen by the chair of the Montana library services advisory council, who is not a council member; a representative from the library community who is not connected the appellant, named by the president-elect of the Montana library association.

(3) The independent review committee shall hear the appeal based on procedures which it shall determine. Both the appellant and the state librarian shall have equal opportunity to present testimony either in writing or orally and to respond to points raised by the other party. The independent review committee shall make its findings and recommendations to the Montana state library commission which shall take final action on the appeal. The commission can affirm, deny, or modify the recommendations of the independent review committee.

(4) The state librarian, upon final determination of the appeal by the commission, shall notify the appellant in writing. This notice shall conclude the appeals process. (History: Sec. 22-1-103, MCA; IMP, 22-1-103, MCA; NEW, 1987 MAR p. 1622, Eff. 9/25/87.)

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10.102.1150 PUBLIC LIBRARY STANDARDS

(1) Public libraries receiving state payments must meet the following standards by July 2001 and each year following:

(a) the library is legally established under Montana's laws according to Title 7, and 22-1-301 through 22-1-317, MCA;

(b) the board conforms to all applicable state, local, and federal laws, rules, and regulations;

(c) libraries that serve more than 25,000 employ a library director with a graduate degree in library or information science or its equivalent;

(i) the commission will determine equivalency by:

(A) examining the applicant to determine if she or he possesses the knowledge and abilities equivalent to those of a library school graduate and is qualified to carry on library work ably and efficiently; or

(B) determining that the applicant holds a graduate degree in another related curriculum area.

(d) libraries that serve less than 25,000 employ a library director who is, or will be within three years of hire, certified by the state library or employ a library director who has a graduate degree in library or information science or its equivalent;

(e) paid staff person is present during 90% of all open hours;

(f) the library submits the Montana Public Library Annual Statistical Report to the Montana state library; [See ARM 10.102.1155]

(g) the library is open during the week at least the following minimum hours:

Population	Minimum hours open	Desirable
Less than 3,500	15	25-40
More than 3,500	30	40-50
More than 10,000	40	50-60
More than 25,000	50	60+

(i) many libraries exceed this minimum because the community, board, and director recognize that the number of hours of public service leads to great use by the public,

(ii) a library with more than one service outlet may use the total non-overlapping hours of all the library's service outlets to meet the minimum weekly hours open requirement,

(iii) if a library has summer hours that differ from its winter hours, the hours for the majority of the calendar year should be the hours used for comparison with the minimum hour table.

(iv) if a library notifies the state library that it has a service population that is no more than five percent over the minimum for any of the upper three ranges, then the state library will consider that library in the next lowest range for service population purposes.

(h) the library has a telephone and answers telephone inquiries. (History: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA; NEW, 1999 MAR p. 1724, Eff. 11/19/99.)

10.102.1151 CERTIFICATION STATEMENT

(1) Montana state library will send a certification statement to public libraries each fiscal year.

(a) This statement will provide for a status report regarding each standard and will require the signature of the library director and the library board chair.

(b) The signed and dated certification statement will be returned to the state library by August 25th of each year. (History: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, 22-1-326, 22-1-327, 22-1-328, 22-1-329, 22-1-330 and 22-1-331, MCA; NEW, 1999 MAR p. 1724, Eff. 11/19/99.)

10.102.1152 DEFERRALS

(1) Any library may request a waiver from the state librarian in writing by August 25th of each year.

(a) The state librarian may grant a waiver of any of the standards in ARM 10.102.1150 if:

(i) the library certifies that application of these standards would cause a hardship; and

(ii) provides a compliance plan by which the library will meet the standard(s) within three years.

(b) The state librarian shall notify the library requesting the waiver of the decision by letter by October 1.

(c) Any library may request a one-year extension of the waiver from the state librarian in writing by August 25th of each year. The library shall provide the state librarian with an updated compliance plan and a statement that the application of the standard will cause a hardship.

(d) The state librarian may grant an extension for one year only. No other extension is allowed.

(e) Any library that employs a director without a graduate degree in library or information science or its equivalent as of July 1, 2001 is exempt from [Rule I(1)(c)]. This exemption expires when the director is no longer employed. (History: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA; NEW, 1999 MAR p. 1724, Eff. 11/19/99.)

10.102.1153 FINAL ARBITER

(1) For any questions arising because of [Rules I-VIII], the final arbiter is the state library commission. (History: Sec. 22-1-103, MCA; IMP, Sec. 22-1-103, MCA; NEW, 1999 MAR p. 1724, Eff. 11/19/99.)

10.102.1154 APPEALS PROCESS

(1) The following outlines the process that libraries need to follow if they are denied a waiver of one or more of the standards from above.

(a) Any public library shall have the right to appeal. The request for the appeal shall be made to the State Librarian at P.O. Box 201800, Helena, MT 59620-1800 (406-444-3115) within 12 working days of the receipt of the letter denying payment.

(b) Upon receiving a notice of appeal, the state librarian, acting on behalf of the commission, shall convene an independent review committee. The committee shall consist of:

(i) a member named by the appellant who is not a member of the appellant's library staff, library board, or city or county commission;

(ii) a member chosen by the chair of the state library commission, who is not a commissioner or a state library staff member; and

(iii) a member from the library community who is not affiliated with the appellant's library, the state library commission, or state library staff, named by the president-elect of the Montana library association.

(c) The independent review committee shall hear the appeal based on the following procedures:

(i) both the appellant and the state library shall have equal opportunity to present testimony, either in writing or orally, and to respond to points raised by the other party.

(ii) the independent review committee shall make its findings and recommendations to the Montana state library commission, which shall take final action on the appeal.

(d) The commission can affirm, deny, or modify the findings and recommendations of the independent review committee.

(e) The state librarian, upon final determination of the appeal by the commission, shall notify the appellant in writing. This notice shall conclude the appeals process.

(f) Neither the independent review process nor any subsequent review and decision process of the commission is a contested case, and common law and statutory rules of evidence do not apply to these proceedings.

10.102.1155 ANNUAL STATISTICAL REPORT

(1) The commission, in setting up minimum standards of free public library service and in certifying such libraries for state monies shall require the filing of an annual statistical report.

(a) This annual report may include such types of information as the Montana state library commissioners shall deem necessary.

(b) In no instance shall the commission require new cumulations of statistical data without providing to each affected public library, 60 days prior to the beginning of the period of which information will be collected, notice of the commission's intention to require such cumulations as part of the annual report.

10.102.1156 EFFECTIVE DATE

(1) In order to give all public libraries time to meet these standards, ARM 10.102.1150 through 10.102.1157 will become effective on July 1, 2001.

(2) The effective date for certification requirement of ARM 10.102.1150(1)(d)], is July 1, 2002.

10.102.1157 ADDITIONAL RECOMMENDED LIBRARY STANDARDS

(1) The Montana state library commission has adopted additional public library standards that are not presented in these rules because they are not mandatory standards.

(2) The commission strongly recommends that all public libraries follow as many of the recommended library standards as possible.

(3) A complete set of voluntary public library standards has been sent to all public libraries in a document labeled: Montana Public Library Standards, August 1999.

(4) Additionally, the full set of standards can be found on the state library's web page at: http://msl.state.mt.us/admin/libstandards.html.

Sub-Chapter 36

Public Library Grants

10.102.3601 APPLICATIONS FOR GRANTS (IS HEREBY REPEALED) (History: Sec. 22-1-103(5) MCA; IMP, 22-1-103(5) MCA; NEW, Eff. 12/31/72; AMD, 1977 MAR p. 1156, Eff. 1/1/78; AMD, 1978 MAR p. 1389, Eff. 9/29/78; REP, 1987 MAR p. 1624, Eff. 9/25/87.)

10.102.3602 PRIORITIES FOR GRANTS (IS HEREBY REPEALED) (History: Sec. 22-1-103(5) MCA; IMP, 22-1-103(5) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78; REP, 1987 MAR p. 1624, Eff. 9/25/87.)

10.102.3603 USE OF FEDERAL FUNDS TO SUPPORT LIBRARY FEDERATIONS (IS HEREBY REPEALED) (History: Sec. 22-1-103(5) MCA; IMP, 22-1-103(5) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78; AMD, 1978 MAR p. 1389, Eff. 9/29/78; REP, 1987 MAR p. 1624, Eff. 9/25/87.)

10.102.3604 ARBITRATION OF DISPUTES WITHIN FEDERATIONS

(1) (a) Any disagreement among participants in a library federation regarding the application for or apportionment or utilization of funds or grants received from the commission shall be referred in writing by any participating library or entity to the state librarian.

(b) The state librarian shall assign a member of the state library staff to investigate the disagreement and to prepare a staff report to the commission with a proposed decision.

(c) When the staff report and proposed decision are completed, copies shall be sent to the disputing participants in the federation and the matter placed on the agenda of the next commission meeting.

(d) The commission shall proceed to hear the parties and staff in accordance with the procedures set forth in ARM 10.101.206, and render a decision. (History: Sec. 22-1-103(5) MCA; IMP, 22-1-103(5) MCA; NEW, 1978 MAR p. 509, Eff. 4/25/78; AMD, 1996 MAR p. 1374, Eff. 5/24/96.)

Sub-Chapters 37 through 39 reserved

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10.102.4001 REIMBURSEMENT TO LIBRARIES FOR INTERLIBRARY LOANS (1) Definitions used in this section include:

(a) "Interlibrary loan" means the loaning or provision of copies of library materials from one Montana library to another Montana library. Such materials are to include, but are not limited to, the following: book, copy in lieu of book, magazine/periodical, copy in lieu of magazine/periodical, audiovisual title, government document/technical report and pamphlets, some of which are to be returned.

(b) "Libraries eligible for interlibrary loan reimbursement" are defined in 22-1-328(2), MCA.

(2) Reimbursements will be made on an annual basis based on the following:

(a) Reimbursement will be made at a rate determined by the state library.

(i) This rate is based upon an estimated number of annual interlibrary loans in Montana and available funds.

(ii) This rate may be adjusted if deemed necessary by the state library, by dividing any remaining funds by the number of interlibrary loans claimed for reimbursement.

(b) A form for requesting reimbursement will be issued by the state library. No reimbursement shall be made to any library which does not use the reimbursement form to submit its reimbursement request, or which fails to meet specified submittal deadlines for such requests.

(c) Each annual payment shall be made only for interlibrary loans within the specified year for which reimbursement funding is available. No count of interlibrary loan transactions shall be carried over from one year to another.

(d) Reimbursements will be made within 30 working days after the submittal date.

(e) No library may levy service charges, handling charges, or use fees for interlibrary loans for which it is reimbursed under the provisions of 22-1-325 through 22-1-331, MCA and these rules.

(i) Actual charges for postage are discouraged but not expressly prohibited under these rules.

(ii) Costs for special postal handling of interlibrary loan requests, when requested by the borrowing library, are chargeable costs.

(iii) Interlibrary loans, when completed via electronic submission, also count as reimbursable interlibrary loans, Costs associated with such electronic submission are chargeable if the transmission was specified by the requesting library. Electronic submissions qualify as special handling.

(iv) Per page photocopying charges may not be separately charged to the borrowing library but are assumed to be covered by the reimbursement under these rules.

(f) Providers of interlibrary loan are expected to follow the law in relation to copyright.

(g) Libraries applying for interlibrary loan reimbursement under 22-1-325 - 22-1-331, MCA and these rules must retain certain records as follows:

(i) The library requesting reimbursement shall retain records of interlibrary loans which support and agree with the number submitted for reimbursement.

(ii) Libraries requesting reimbursement shall retain their records of interlibrary loan transactions for a period of three years and must produce these records for auditing purposes.

(h) For any questions arising because of this rule, the final arbiter is the state library commission.

(3) For a library to receive reimbursement through the program, it must annually certify to the state library that the appropriate member of its staff has demonstrated competence regarding the application of the standardized interlibrary loan protocols.

10.102.4003 DIRECT STATE AID TO PUBLIC LIBRARIES FOR PER CAPITA AND FOR PER SQUARE MILE SERVED

(1) Definitions used in this section include:

(a) "Public library" means those libraries as defined in 22-1-303 through 22-1-317 MCA, and in Title 7 MCA.

(b) "Population" means those official, final figures from the most recent decennial census of population produced by the U.S. bureau of the census.

(c) "Leftover population" means the population count remaining in each county after the population counts of each municipality with library service are subtracted.

(d) "Additional population" means the population count which is to be credited to each public library based on the proportion of that municipality's population to the total population of the county.

(e) "Leftover square miles" means the number of square miles left in each county after the square miles of each municipality with public library service are subtracted from the total number of square miles in the county.

(f) "Additional square miles" means the number of square miles credited to each public library, based on the proportion of that municipality's population of the total population of the county.

(2) The per capita portion of the direct state aid to public libraries will be distributed annually based on the following:

(a) In counties which have county-wide library service from one public library, or in which only one municipal public library exists, the most recent decennial census figure will be multiplied by the amount of state aid available per capita in each year.

(b) In each county with more than one municipal public library, the following procedure will be employed:

(i) The population counts of all municipalities with public libraries are added together and subtracted from the total county population resulting in the leftover population figure.

(ii) Each year all monies received by these libraries from the county commission are added together; each year each library's total is divided by the total amount received by all the libraries to determine the percentage of money given to each library by the county.

(iii) The leftover population figure is multiplied by the percentage of money each library receives from the county in order to determine the additional population figure which will be credited to each library.

(iv) The municipal population and additional population figures are added together to determine the total population which will be credited to each library.

(v) For each library the total population credited to each library is multiplied by the amount of per capita state aid available in each year to determine the total per capita support.

(vi) In the case of counties in which no county aid is provided to municipal libraries, the additional population credited to each library is based solely on the ratio of each municipal library's service area population to the total county population.

(vii) In the case of counties in which only one of two or several municipal libraries receives county aid, the library receiving county aid is credited with the entire county population exclusive of the population present in the service area populations of any other municipal libraries.

(viii) The population counts of legally annexed areas, as determined by the latest decennial U.S. census, will be credited to the municipality annexing the area the year following the annexation.

(3) The per square mile portion of the direct state aid to public libraries will be distributed annually based on the following:

(a) In counties which have county-wide library service from one public library, or in which only one municipal public library exists, the total square miles of each county will be multiplied by the amount of state aid available per square mile in each year.

(b) In each county with more than one municipal public library, the following procedure will be employed:

(i) The number of square miles of all municipalities with public libraries are added together and subtracted from the total number of square miles in the county to determine the leftover square miles.

(ii) The population counts of all municipalities with public libraries are added together, and each library's population is divided by the total county population to determine the percentage of the county population credited to each library.

(iii) The leftover square miles figure is multiplied by the percentage of the county population credited to each library in order to determine the additional square miles to be credited to each library.

(iv) Each municipality's square miles are added to their appropriate additional square miles to determine the total square miles credited to each library.

(v) For each library the total square miles credited to each library is multiplied by the amount of per square mile state aid available in each year to determine the total square mile support.

(4) In the case of library districts which are not defined by municipal or county boundaries, but by boundaries such as school districts, both the per capita and the per square mile state aid will be distributed using the appropriate boundaries and population figures as if they were municipal or county boundaries and counts.

(5) In each county which has no public libraries, the state library will contact the county commission indicating that the county will qualify for per capita and per square mile state aid if the county commission establishes county-wide library service as provided for in state statute, or if the county commission contracts for library services with another county or municipal library as provided for in state statute. If such means are not established within a six-month period following written notice received from the state library, the state aid which would have gone to the county will be allotted to the federation headquarters library in whose area this county is located for use in federation activities.

(6) For any questions arising because of this rule, the final arbiter is the state library commission.

Sub-Chapter 51

Federation Areas

10.102.5101 DESCRIPTION OF FEDERATION AREAS AND HEADQUARTERS (1) A list of federation areas and headquarters libraries is available without charge from the Montana state library. (History: Sec. 22-1-103(9) MCA; IMP, 22-1-103(9) MCA; NEW, Eff. 1/1/78; AMD, 1986 MAR p. 1506, Eff. 9/12/86.)

10.102.5102 ALLOCATION OF FUNDING BETWEEN FEDERATIONS AND GRANT PROGRAMS (1) At its first meeting following receipt by the library commission of the estimate of the appropriation to public library federations the commission shall allocate all funds received up to $500,000 to library federations according to the following formulas:

(a) The portion of the appropriation allocated to library federations shall be distributed among the six federations according to the following formula: 50% of the first $250,000 shall be divided equally among the six federations and 50% shall be allocated on the basis of population within the six federations.

(b) Any appropriation in excess of $250,000 shall be divided according to the following formula: 20% of the remainder shall be allocated equally among the six federations. 80% of the remainder shall be allocated among the six federations on the basis of population.

(c) The state library commission does have the responsibility and authority to approve federation plans of service and does have the responsibility and authority to approve or deny funding for the components of the plans of service. A federation may not receive an appropriation from the state library commission until its annual plan of service for federation activities is approved by the commission. The state library commission can disapprove a plan of service only because it was not prepared according to the procedures and forms established by the state library commission, or because it does not address the authorized purposes and/or priorities as established by the state library commission to implement its state long range plan for libraries.

(d) Each federation's annual plan of service shall be based upon direction given by the state library commission from its consideration of the state long range plan for libraries. The annual plan of service is submitted to the state library each January for consideration and action by the state library commission at its February meeting. Changes or appeals related to the plans of service occur during February/March. These changes or appeals are acted upon by the state library commission in April/May of each year.

(e) Each federation shall ensure equal opportunity for representation of its member libraries and shall have approved bylaws which shall address approval procedures for the annual plan of service, proxy voting, quorum requirements and other procedural matters necessary for conducting federation business.

(f) An appeals process shall be available for any federation which is denied funding. This appeals process shall follow the appeals process for denial of a grant as set forth in ARM 10.101.206. (History: Sec. 22-1-103, 22-1-413 MCA; IMP, 22-1-413 MCA; NEW, 1986 MAR p. 1506, Eff. 9/12/86; AMD, 1996 MAR p. 1374, Eff. 5/24/96.)

10.102.5103 GRANT PROGRAMS AND APPLICATION PROCEDURE

(1) The commission may allocate any funds in excess of $500,000 at its second meeting following receipt of the estimate from the office of budget and program planning to grant programs.

(a) Application for grants shall be made in writing to the state library commission giving such detail as may be necessary to satisfy the commission.

(b) Applications from library federations must indicate the extent to which the grant is expected to help libraries achieve levels of service or strength as prescribed by the Montana public library standards.

(c) Grant applications from federations, individual libraries and library networks shall be approved by the board of trustees of the library or library network.

(d) The applications shall be submitted to the library commission not later than four weeks after the library commission announces the portion of appropriations set aside for grant proposals at its next scheduled meeting. Brief oral presentations in support of proposals are invited and questions may be asked by the commission.

(e) The commission may limit the length of discussion on grant applications.

(f) Any funds not allocated by the library commission to grant proposals shall be distributed in accordance with the formula for allocation of the state appropriation to library federations as set forth in ARM 10.102.5102(1)(b). (History: Sec. 22-1-103, 22-1-413 MCA; IMP, 22-1-413 MCA; NEW, 1986 MAR p. 1506, Eff. 9/12/86.)

10.102.5104 PRIORITIZATION OF GRANT APPLICATIONS

(1) The commission shall prioritize grant applications by reference to the following unprioritized list of fundable grant program features:

(a) Projects which enable libraries to meet one-time capital investment costs in collection development or automation of libraries.

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(b) Programs to provide assistance to local libraries in strengthening personnel.

(c) Proposals which strengthen the ability of local libraries to play their role in community centers.

(d) Pilot projects to enable federations to utilize the resources of all member libraries.

(e) Statewide projects which involve all federations or which enable federations to cooperate in offering services.

(f) Pilot projects to strengthen core services which can be continued through regular federation funding.

(g) Special projects which enable libraries to serve special clients or address areas needing special attention.

(h) Projects that enable local libraries and/or federations to enrich or extend library services. (History: Sec. 22-1-103, 22-1-413 MCA; IMP, 22-1-413 MCA; NEW, 1986 MAR p. 1506, Eff. 9/12/86.)

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Sub-Chapter 52

State Library Services

10.102.5201 LOAN SERVICES (1) Materials owned by the state library will be lent:

(a) directly to persons employed by the state of Montana;

(b) through federation headquarters libraries to those residents of the state who have no tax-supported city or county public library but whose city or counties have federation affiliation;

(c) to city or county public libraries which are members of federations for circulation to individuals and schools within their areas;

(d) to state institutions for the use of residents and staff; and

(e) to academic and special libraries for use by their patrons.

(2) Recognizing the interdependence of government offices, the state library will also lend its materials to federal or other government agencies to support the research needs of the staff of these agencies.

(3) Individuals, organizations and schools in areas served by public libraries belonging to federations, and persons employed by organizations which maintain special libraries, are asked to make their requests through the federation headquarters library in order that the federation coordinator will be cognizant of all the library needs of the community for the purpose of developing the local library collection to meet the greatest portion possible of those needs.

(4) The state library subscribes to the Interlibrary Loan Code for Montana adopted by the Montana library association in May, 1971.

(a) In accordance with that code, the state library will attempt to obtain for its patrons and the libraries which borrow from it materials held by other libraries when the state library collection does not include those materials.

(5) As an incorporator in the Pacific Northwest Bibliographic Center, the state library encourages the sharing of library resources in the northwest and the strengthening of those resources to meet the needs of the region. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78.)

10.102.5202 ADVISORY SERVICES (1) In order to strengthen local public libraries and to assist in the development of leadership on the part of librarians, trustees and local officials, the state library provides consultant services on library management, resources and services.

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(2) Consultant visits are made only on invitation; library staff members advise, but the final decision on carrying out recommendations remains the responsibility of the local library board.

(3) While the state library commission does not have a legal responsibility for development of school library or academic library services, state library staff will make available appropriate advice and assistance, upon request, for the effective coordination of multitype library cooperation in the state. (History: Sec. 22-1-103(1) MCA; IMP, 22-1-103(1) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78.)

10.102.5203 ACCESS TO CIRCULATION RECORDS (1) The Montana state library commission formally adopts the policy which specifically:

(a) recognizes its circulation records and other records identifying the names of library users with specific materials to be confidential.

(b) Advises all librarians and library employees that such records shall not be made available to any agency of state, federal or local government except pursuant to such process, order or subpoena as may be authorized under the authority of and pursuant to federal, state or local law relating to civil, criminal, or administrative discovery procedures or legislative investigatory power.

(c) Resist the issuance or enforcement of any such process, order or subpoena until such time as a proper showing of good cause has been made in a court of competent jurisdiction. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, Eff. 12/31/72; AMD, 1977 MAR p. 1156, Eff. 1/1/78; AMD, 1987 MAR p. 1624, Eff. 9/25/87.)

10.102.5204 SELECTION OF MATERIALS (1) Materials will be selected, retained and discarded with due consideration for library objectives as listed in the state library's rule ARM 10.102.101.

(2) Materials are selected for the Montana state library collection according to the following guidelines:

(a) The state library will acquire a comprehensive collection of general and specialized reference sources as well as nonfiction materials to answer informational inquiries and to supply research information.

(b) Special consideration will be given to requests from state agencies, with Montana state library retaining the decision as to whether or not to purchase.

(c) As a depository for state and federal publications, the state library will follow applicable regulations governing depository libraries as it selects appropriate materials for its collection.

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(d) Materials related to Montana and by Montana authors are considered for purchase, except old and rare materials; only items which can be circulated will be purchased.

(e) Montana state library will acquire a collection of materials by and about Native Americans.

(f) The state library will acquire a specialized collection of materials in librarianship for the use of its staff and for the use of librarians, trustees and local groups interested in developing library services.

(g) All American library association titles are purchased.

(h) Textbooks required for school use generally are not purchased; textbooks are added to the collection when they represent the most appropriate material available in the field.

(i) Materials needed only rarely will be borrowed through interlibrary loan networks, rather than purchased.

(j) Paperbacks are not purchased for the general collection except for nonfiction titles not available in hard cover; paperbacks are purchased for use at some of the institutions.

(k) Genealogy selections are limited to basic reference titles.

(l) Large print titles are purchased for the division for the blind and physically handicapped for use as backup collections to public libraries serving patrons with limited vision.

(m) Materials for libraries at institutions will be selected to provide a public library collection.

(3) Responsibility for materials rests with the state librarian; provision is made to insure maximum participation of professional staff members in the reviewing process. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78.)

10.102.5205 CRITERIA FOR SELECTION OF MATERIALS (1) In general, the library's policy is to purchase the materials which meet the following criteria:

(a) permanent, historical or timely value;

(b) accurate information;

(c) authoritativeness.

(2) Insofar as it is possible, an effort shall be made to maintain a collection which reflects balance in ideas and points of view..

(a) In some instances materials which do not meet the major criteria for selection may be acquired because of their current interest or significance.

(3) The collection will be continually reviewed to insure that it reflects the expressed and potential needs and interests of the state and meets the basic and current objectives of the library.

(a) Materials which are obsolete shall be withdrawn from the collection;

(b) Materials in poor physical condition will be rebound

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or replaced as necessary;

(c) The physical format of the materials (binding, typography, paper, etc.) shall be considered when library materials are evaluated for purchase, with particular attention given to the usability of materials purchased for service with handicapped patrons.

(4) The library will accept gift materials for its collection with the understanding that it will apply the same criteria to them that it does for materials selected for purchase.

(a) Gifts are accepted only with the full understanding that they may be passed on to other libraries or discarded if, in the judgment of the state librarian, they are not appropriate to the collection of the state library or of other libraries.

(i) Gift materials will be used in the same manner as other library materials, circulated if appropriate and kept in the library for reference use if their nature warrants.

(ii) Such materials will not be housed as special collections subject to restricted use. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, 1977 MAR p. 1156, Eff. 1/1/78.)

10.102.5206 PROCEDURES FOR CHALLENGING MATERIALS (1) Individuals or organizations wishing to challenge the selection or inclusion of particular materials in the library's collections should file statements in writing with the state librarian.

(2) Statements identifying the challenger and giving specific reasons for objecting to the material in question will be fairly considered, answered in writing and reported to the state library commission for such action as it deems appropriate. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, Eff. 12/31/72.)

10.102.5207 CHARGES FOR LOST OR DAMAGED BOOKS (1) Books and other library materials borrowed from the state library and due on or after January 1, 1977, will be subject to a charge if lost or damaged beyond further reasonable use. (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, Eff. 12/31/72; AMD, 1977 MAR p. 1157, Eff. 1/1/78; AMD, 1987 MAR p. 1624, Eff. 9/25/87.)

10.102.5208 PHOTOCOPY SERVICE (IS HEREBY REPEALED) (History: Sec. 22-1-103(4) MCA; IMP, 22-1-103(4) MCA; NEW, 1977 MAR p. 1157, Eff. 1/1/78; REP, 1987 MAR p. 1624, Eff. 9/25/87.)

Sub-Chapters 53 through 79 reserved

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Sub-Chapter 80

Scholarship Program

10.102.8001 GRADUATE SCHOLARSHIP PROGRAM (1) The Montana state library commission may as funds are available offer scholarships for the graduate studies in library science, educational media or information science. The number and value of such scholarships shall be determined by the commission. The commission shall adopt procedures insuring grants are designed to increase the professional staffing for Montana libraries. (History: Sec. 22-1-103(5) MCA; IMP, 22-1-103(5) MCA; NEW, Eff. 12/31/72; AMD, 1977 MAR p. 1157, Eff. 1/1/78; AMD, 1987 MAR p. 1624, Eff. 9/25/87.)

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Sub-Chapter 81

Depository Procedures for State Documents

10.102.8101 DEPOSITORY PROCEDURES FOR STATE DOCUMENTS (1) Any Montana library to be designated as a full depository shall agree to the following conditions with the understanding that failure to comply with any one condition is sufficient ground for cancellation of the contract between the state and the library.

(a) Provide space to house the publications with adequate provision for expansion.

(i) State publications need not be maintained in a separate collection unless the receiving library prefers to do so.

(ii) Housing in a vertical file rather than on shelves is acceptable for appropriate pamphlet-type materials.

(b) Provide an orderly, systematic recording or receipt of the documents.

(c) Process and shelve all state publications within 30 days after receipt of the material.

(d) Provide a professionally trained librarian to render satisfactory service without charge to qualified patrons in the use of such publications.

(i) This librarian need not spend full time on state publications.

(e) Dispose of publications only with the permission of the state librarian.

(f) Accept and maintain all publications specified as "basic items".

(2) Library rules must assure that the documents are available for public use and circulation, unless for some unusual reason it becomes necessary to restrict use. (History: Sec. 22-1-212 MCA; IMP, 22-1-212 MCA; NEW, Eff. 12/31/72.)

10.102.8102 POLICIES AND GUIDELINES FOR DEPOSITORY LIBRARIES (1) Depository libraries shall keep all state documents received from the state publications library distribution center of the Montana state library for a minimum of two years.

(2) Publications that depository libraries do not wish to keep may be discarded only by the following procedure:

(a) Make a list annually of all documents that are to be discarded.

(i) The center will accept the list only once during the year.

(ii) Submit such lists to the state publications library distribution center.

(iii) The center will select publications for the needs of the Montana state library.

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(iv) The lists will then be reproduced by the center and circulated to other depository libraries and other interested libraries in Montana wanting to acquire a copy or wanting additional or replacement copies.

(3) The above outlined procedure will begin January 1, 1978.

(a) Depository libraries will submit their list annually no later than January 15th.

(b) Documents may be discarded after March 31 if they have not been requested by a library.

(c) Discarded documents should not be mailed to the Montana state library unless depository libraries are requested to do so.

(d) State publications received by a depository library, other than as part of the depository program, need not be listed on the list of state documents to be discarded.

(e) Documents to be discarded may be stored; however, they must be stored in such manner as to be retrievable and accessible.

(4) The documents librarian or other state library personnel will make an inspection of each depository library once yearly; depository status of each library will be reviewed at that time.

(5) For the purpose of preparing to implement the procedures of handling the list, it is recommended that each depository library stamp each state document with date of receipt.

(6) Depository libraries shall open depository shipments upon receipt so as to become aware of contents of such shipments, even though they cannot be processed immediately.

(7) Depository libraries desiring publications listed on the "weekly shipping list", and insufficient copies were received by the center to make full distribution, may notify the center of their needs; every effort will be made to obtain a copy for the requesting library.

(a) The depository library is not to contact the issuing agency directly. (History: Sec. 22-1-212 MCA; IMP, 22-1-212 MCA; NEW, 1977 MAR p. 1157, Eff. 1/1/78.)

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CHAPTER 4
MONTANA PUBLIC LIBRARY STANDARDS

CHAPTER 4 MONTANA PUBLIC LIBRARY STANDARDS

Rules governing the administration of these standards can be found on pages 3-6 through 9.

INTRODUCTION

These standards are the result of a cooperative project between the Montana State Library (MSL) and the Montana Library Association's Public Library Division (PLD). Together, MSL and PLD reviewed the 1983 edition of the standards and identified concerns and issues to be addressed in an updated edition. The joint committee debated each issue through in-person, e-mail, and telephone conversations. The Montana State Library Commission approved the Montana Public Library Standards in January 1999.

The Montana State Library staff and Commission and the Public Library Division hope that Library staff and trustees find these standards helpful. In particular, these standards are intended to:

- Provide a tool to assess the quality and effectiveness of the library;
- Help each library determine areas to improve;
- Aid each library in taking an active role to gain maximum community support;
- Provide a basis for collecting useful statistics for planning and evaluation.

In addition, the Commission made a subset of these standards mandatory for the receipt of state aid. These standards are bolded. The administrative rules that govern these standards are included in the administrative rule section of this publication.

This document is divided into five sections. Each begins with a general description of the topic, followed by the standards including a checklist with possible answers for self-assessment.

The State Library maintains a comprehensive collection of library science materials designed to assist boards, directors, library staff, and government officials to plan and manage library services. For more information on these materials and other assistance from the State Library, please call 1-800-338-5087 or 1-406-444-3004.

MONTANA PUBLIC LIBRARY STANDARDS

Montana law contains various methods by which communities can establish public libraries. Usually communities establish libraries under the laws contained in Title 22, Montana Code Annotated (MCA). In cities or counties that operate under Title 7, MCA, the charter, or an interlocal agreement establishes the governance of the library. The charter or agreement may define the responsibilities of the library board and city or county governments. If appropriate, in the standards below, please substitute the applicable body, e.g., city or county commission, for "board."

SECTION 1 - GOVERNANCE & FINANCE

Quality library service is based on adequate funding, compliance with all applicable laws, and sound management practices. The library director and the board work together to ensure that the library has sufficient funds to meet the needs of its community. The director and board are knowledgeable about all applicable laws and administer the library wisely.

General

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
1. **The library is legally established under Montana's Laws according to Montana Code Annotated, 22-1-301 through 22-1-317, or Title 7.**	☐	☐	☐	☐
2. **The board conforms to all applicable state, local, and federal laws, rules and regulations.**	☐	☐	☐	☐
3. The board is knowledgeable about current library issues.	☐	☐	☐	☐
4. Library board meetings are preferably held each month but not less then quarterly.	☐	☐	☐	☐
5. Meetings are held in an accessible location, at times and a place convenient to the public and according to state laws on public meetings.	☐	☐	☐	☐

6. The library provides continuing education for its trustees by allocating funds to support continuing education costs, including travel expenses.	☐	☐	☐	☐
7. The library submits the Montana Public Library Annual Statistical Report to the Montana State Library.	☐	☐	☐	☐

Policies and Bylaws

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
8. The board reviews and updates as necessary its bylaws every three years.	☐	☐	☐	☐
9. The board works with the director to develop, study, evaluate, and adopt library policies.	☐	☐	☐	☐
10. The board reviews and updates as necessary all library policies at least once every three years.	☐	☐	☐	☐
11. The library has procedures for carrying out library policies. Procedures are reviewed and updated as necessary once every three years.	☐	☐	☐	☐
12. The public has easy access to written policies, procedures, and bylaws.	☐	☐	☐	☐

Planning & Evaluation

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
13. The board and the director periodically review the use and	☐	☐	☐	☐

services of the library.

14. The board works with the director to adopt a long-range plan that is reviewed and updated each year. The plan is based on an assessment of community needs. It contains a mission statement, goals, and specific measurable objectives, with a timetable for achievement.	☐	☐	☐	☐
15. The board uses the Montana Public Library Annual Statistical Report to review the library's year-to-year progress and performance.	☐	☐	☐	☐

Finance

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
16. Local tax revenues primarily support the library. Grants, donations, and other revenue sources supplements but do not supplant local tax support.	☐	☐	☐	☐
17. The director works with the board to develop an annual financial plan or budget based on the library's goals and objectives.	☐	☐	☐	☐
18. The board and director follow fiscal procedures consistent with state law and local government requirements in preparing, presenting, and administering its budget.	☐	☐	☐	☐
19. The board and director annually review the adequacy of insurance coverage and update the coverage as necessary.	☐	☐	☐	☐

SECTION 2 - HUMAN RESOURCES

The board and library director are responsible for selecting staff who are well trained and compensated fairly to ensure quality library service.

Some library boards adopt the personnel policy of their city or county, while some develop a specific library policy. Regardless of which policy is adopted, the library director and the board are responsible for insuring that staff members project a positive attitude, receive on-going training, and are available in sufficient numbers to provide high level service.

The Library Director

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
1. The board hires the director according to local, state, and federal regulations.	☐	☐	☐	☐
2. The board delegates the day-to-day management of the library to the director.	☐	☐	☐	☐
3. The board evaluates the performance of the director annually.	☐	☐	☐	☐
4. Regardless of size, each public library has a paid director who is responsible for the administration of library services.	☐	☐	☐	☐
5. Libraries that serve more than 25,000 employ a library director with a graduate degree in library or information science or its equivalent.	☐	☐	☐	☐
6. Libraries that serve less than 25,000 employ a library director who is, or will be within three years of hire, certified by the state library.	☐	☐	☐	☐

General

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
7. Library staff members have salaries, hours, and benefits comparable with other positions in the community, which have similar education requirements and job responsibilities.	☐	☐	☐	☐
8. The library board provides continuing education for the director and staff members by allocating funds to support continuing education costs, including travel expense and salary.	☐	☐	☐	☐
9. Paid staff persons are present during 90% of all open hours.	☐	☐	☐	☐
10. The board adopts a personnel policy.	☐	☐	☐	☐

SECTION 3 - ACCESS

The library must offer its services in a consistent and reliable manner to citizens. Access also means the ability or freedom of an individual to make use of library services. The library provides free access and core services to its community, as defined in local library policies.

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
1. Core library services are offered during all hours that the library is open.	☐	☐	☐	☐
2. The board and the director determine the days of the week and the hours during the day to be open to provide maximum service to the public.	☐	☐	☐	☐
3. The library's hours of service and scheduled activities are publicized.	☐	☐	☐	☐
4. **The library is open during the week at least the following minimum hours. Many libraries exceed this minimum because the community, board and director recognize that the number of hours of public service leads to greater use by the public. A library with more than one service outlet may use the total non-overlapping hours of all the outlets to meet the minimum requirement.**	☐	☐	☐	☐

Population	**Minimum**	**Desirable**
Less than 3,500	**15**	**25-40**
More than 3,500	**30**	**40-50**
More than 10,000	**40**	**50-60**
More than 25,000	**50**	**60+**

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
5. The library uses sufficient signage to help the public find library services.	☐	☐	☐	☐
6. Library users who wish to copy materials available from non-circulating items or from computer files have access to a photocopy machine or printer.	☐	☐	☐	☐
7. **The library has a telephone and answers telephone inquiries.**	☐	☐	☐	☐

SECTION 4 - MATERIALS AND COLLECTIONS

The collection of the library is the core of its services and must reflect the needs of the community. The library must systemically plan for the development of its collection, including de-selecting items on a regular basis. Users should find it easy to locate items within the library, use the library's interlibrary loan services, and access electronic resources.

Collection Development

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
1. The board adopts a collection development policy that it reviews every three years. The policy addresses the use of electronic resources.	☐	☐	☐	☐
2. The board and the director develop an annual materials budget as part of the library budget.	☐	☐	☐	☐
3. The library cooperates with other local and regional libraries in collection development to provide a wide range of materials in a variety of formats to meet the needs of the community.	☐	☐	☐	☐
4. The library uses at least one professionally recognized review source.	☐	☐	☐	☐
5. The library provides access to federal, state and local government documents that are appropriate to its community.	☐	☐	☐	☐
6. The library cooperates with other community institutions to plan and implement access to electronic resources.	☐	☐	☐	☐

Access to the Collection

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
7. Library users can access electronic resources, including the Internet, without a staff intermediary.	☐	☐	☐	☐
8. Materials are purchased to ensure a steady flow of materials for the public.	☐	☐	☐	☐
9. The library catalogs and organizes its collection according to standard cataloging and classification systems and procedures. Automated records comply with the machine-readable catalog (MARC) format.	☐	☐	☐	☐
10. Users may check out all materials except those that are irreplaceable, fragile, or needed in the reference or designated special collections.	☐	☐	☐	☐
11. The library participates in the interlibrary loan system and follows the Montana State interlibrary loan protocols. .	☐	☐	☐	☐

Collection Evaluation

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
12. The library's collection is continually evaluated based on currency, use, physical condition, outmoded or outdated information, and conformance with the library's collection management plan. The entire collection is evaluated within each three-year period.	☐	☐	☐	☐

13. The library monitors the use of the collection through analyzing statistical information, including circulation per capita and the collection's turnover rate.	☐	☐	☐	☐

SECTION 5 – FACILITIES & PUBLIC RELATIONS

The attractiveness and location of library buildings directly impact library use. Libraries should be conveniently located, offer sufficient parking, be free of physical barriers, and large enough for the population served.

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
1. The board and the director evaluate the library building(s) regularly to determine adequate space needs to support staff, collections, services, program needs, and public use.	☐	☐	☐	☐
2. The board and the director address any identified facility shortcomings in a building plan.	☐	☐	☐	☐
3. The library facility is safe for the public and staff.	☐	☐	☐	☐
4. The library's facilities conform to federal requirements for accessibility.	☐	☐	☐	☐

Public Relations

The board and director should strive to increase community awareness about the library and its services. Community awareness and knowledge of the library is sustained through close attention to informal and formal methods of marketing.

	Yes, meet this standard	No, don't meet this standard	Planned	Not Planned
5. The board, the director, and library staff communicate a positive image of the library and its services.	☐	☐	☐	☐
6. The library cooperates in state, regional, and national efforts to promote library services.	☐	☐	☐	☐

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